



## **Eastbourne Borough Council**

### **Hackney Carriage and Private Hire Licensing Guidance**

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## **Part One: Introduction**

This Licensing Guidance is written pursuant to the powers conferred by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, as amended, which place on Eastbourne Borough Council (“the Council”) the duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles. In addition, the Council will have due regard to all other relevant legislation and guidance in its decision-making process. The Council has responsibility for the licensing of vehicles, drivers and operators within the borough of Eastbourne and in exercising its discretion the Council will have regard to this Guidance.

The Council recognises the important role that hackney carriage and private hire vehicles play as part of an integrated transport system as they provide essential services particularly in those situations where public transport is either not available, for example in rural areas, and for those individuals with mobility difficulties.

In setting out this Guidance the Council seeks to:

- a. Ensure the safety and welfare of the public - which is the overriding objective,
- b. Encourage environmental sustainability,
- c. Ensure an efficient and effective hackney carriage and private hire provision,
- d. Monitor and improve standards of service in the trade

Notwithstanding the existence of this Guidance, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to substantially depart from this Guidance, in exceptional circumstances, reasons will be given for doing so.

This Guidance was introduced on 4 April 2022 and will be kept under review and amended as and when necessary to reflect changes in legislation, case law, statutory guidance and best practice. The guidance will be fully reviewed in June of each year commencing June 2023.

Minor amendments to this Guidance required for example by virtue of legislative change or administrative procedural change may be made by the Lead – Regulatory Services in consultation with the Chair of the Licensing Committee.

Significant amendments to the Guidance will require a full public consultation prior to consideration by the full Licensing Committee. Significant amendments include those that will have a significant procedural or financial impact on applicants, licence holders or the public and those which are inconsistent with the Guidance objectives.

When any revisions are made to the Guidance the Council will publish a statement of the revision on its website along with the revised Guidance.

Any changes to the licensing requirements will be followed by a review of the licences currently issued. If requirements are changed regarding vehicle specification or licence, holders will need to undertake additional training, then reasonable time will be allowed for these changes to take place. Where a more subjective change has been introduced, for example an amended Guidance on previous convictions, the licensing authority will consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a Guidance, the licensing authorities will consider doing so.

## **Part 2: Definitions**

|                                |   |
|--------------------------------|---|
| The 1847 Act                   | Town Police Clauses Act 1847  |
| The 1976 Act                   | Local Government (Miscellaneous Provisions) Act 1976  |
| Authorised Officer             | Means an Officer of the Council authorised under the Council's Scheme of Delegation to administrate the licensing function  |
| Best Practice Guidance         | Means Best Practice Guidance on Taxi and Private Hire Vehicles Licensing issued by the Department of Transport in March 2010 as amended or as may be replaced.  |
| Council or Licensing Authority | Means Eastbourne Borough Council in its licensing function  |
| Driver                         | Refers to dual drivers, unless expressly stated or the context indicates otherwise  |
| Hackney Carriage               | Means a vehicle licenced under the 1847 Act to stand or ply for hire throughout the borough controlled by the Council   |
| He/his                         | shall apply to female equivalent  |
| Plate                          | means the identification plate with the Council's licence reference number fixed to the rear exterior of the vehicle.   |
| Private Hire Operator          | Means a person who during business makes provision for the invitation or acceptance of bookings for private hire vehicles   |
| Private Hire Vehicle           | A motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers |
| Proprietor                     | Refers to owners of either hackney carriage or private hire vehicles, unless expressly stated or the context indicates otherwise and includes a part proprietor   |
| Vehicle                        | Refers to a hackney carriage or private hire or specialist vehicle, unless expressly stated or the context indicates otherwise  |

## **Part 3: Vehicles**

### **Limitation of Numbers**

The Council currently has no limit on the number of hackney carriages which may be licensed within the Borough and has no intention of introducing one unless evidence of no significant un-met demand can be provided.

No powers exist for the Council to limit the number of private hire vehicles that it may licence.

### **Criminality Checks on Vehicle Proprietors**

As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime. Where vehicle proprietors are not currently licensed drivers, they will be required to provide an annual basic disclosure certificate.

### **Specifications and Conditions**

The Council has a wide discretion over the type of vehicle it can licence, and the best practice suggests that local licensing authorities should adopt the principle of specifying as many different types of vehicle as possible.

The Council is empowered to impose such conditions as it considers reasonably necessary in relation to vehicles licences. Licence conditions relevant to the type of vehicle are contained in Appendix 1.

### **Environmental Considerations**

The Council has considered introducing tougher emissions standards for all licensed vehicles and considers its responsibility in protecting the environment to be an important objective of the Guidance.

The Council is committed to reducing emissions through raising awareness of environmental issues with the trade and other interested parties.

At this time the Council considers that its requirement for all vehicles to be tested every six months means that it does not require tougher emission standards for licensed vehicles other than the relevant Euro standard.

### **Licence Duration**

The duration of a vehicle licence is 12 months.

## **Maximum Age of Vehicles**

Vehicles presented for first licensing shall not be more than nine years old and vehicles presented for re-licensing shall not be more than ten years old, apart from in exceptional circumstances at the discretion of an Authorised Officer. Applications to re licence vehicles over ten years old must be made in writing to the Council citing what is an 'exceptional circumstance'. Neither financial circumstances nor the condition of the vehicle will be considered as an exceptional circumstance when making a determination.

For new and relicensed vehicles defined by the Vehicle Certification Agency as Low Emission, Hybrid, Ultra Low Emission Vehicles and Zero Emission Vehicles shall not be more than 15 years old in age.

## **Vehicle Testing**

No vehicle may be used unless it has a current MOT pass certificate and have passed a Vehicle Suitability Test ("VST") both of which must be dated no earlier than one calendar month prior to the licence commencement date. Vehicles that are less than one year old will be exempt from obtaining a current MOT pass certificate but will still be required to pass a VST.

All vehicles will be subject to an annual MOT and a six monthly VST. Each application for a grant or renewal of a vehicle licence must be accompanied with proof of compliance.

The licence of any vehicle which fails its testing requirement will be automatically suspended until such time as the vehicle has been re-examined and the necessary pass certificate obtained.

In addition, the Council will undertake a programme of inspections between formal testing dates. All vehicles must be available for inspection, at any location within the Borough, at any time, when requested by an Authorised Officer or a Police Officer. All vehicle documentation must be produced within 24 hours, or at such time as specified, when requested by an Authorised Officer or a Police Officer. In the event of any concerns in relation to vehicle safety the vehicle will be referred for a VST. Where in the opinion of an Authorised Officer the testing requirements would not be met, they may agree a period for rectification and re-inspection, or they will suspend the vehicle until such time as the re-testing requirements shall be met.

Responsibility for ensuring the vehicle is tested and licensed remains with the licence holder.

VST's are only to be carried out by a Council designated DVSA approved garage in the Borough.

## **Livery**

The Council believes that the requirements of this Guidance ensure that hackney carriages and private hire vehicles are easily distinguishable.

1. All hackney carriage vehicles will be white in colour.
2. Private hire vehicles will be any colour other than white.

3. Door signs are provided by the Council. All vehicles are required to display an approved door sign on the middle portion of the front driver and passenger doors as supplied by the council. This sign must be permanently fixed to the door, magnetised signs are not permitted.
4. All hackney carriage vehicles will display a roof sign as specified within the vehicle conditions.

### **Change of Ownership**

Any change to the proprietor named on a vehicle licence must be notified to the Council within fourteen days of any change.

When the proprietor of a vehicle licence wishes to transfer the licence to another person, company or partnership they must notify the Council, using the prescribed application form and paying the appropriate fee, before such a change takes place.

### **Unauthorised Use**

The proprietor shall not allow the vehicle to be driven and/or used for hire by any person who does not hold an appropriate current driver licence.

### **Intended Use (Hackney Carriages only)**

A hackney carriage vehicle licensed by one local authority can be used to fulfil pre-booked hiring's on behalf of private hire operator licensed by another local authority. In order that the Council may retain local control over the hackney carriages it licenses, applicants will be asked as part of the application process which area they intend to operate from entirely or predominantly for the purposes of fulfilling pre-booked hiring's. It will be incumbent upon the applicant to demonstrate to the Council's satisfaction that they intend to ply for hire predominantly within the Borough. If the applicant indicates that they will not predominately work within the Borough, the application will normally be refused.

If the vehicle is found to be operating in contravention to the information supplied in the application form, then enforcement action will be considered, which may include revocation of the licence.

This section is not intended to act as a restraint of trade since applicants may make applications to any local authority in which area they intend to ply for hire.

### **Accident Reporting**

Any accident in a vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of passengers must be reported to the Council as soon as reasonably practicably and in any case within 72 hours of the event.

Following any accident, as defined above, if it is the intention of the proprietor to continue licensed use of the vehicle it must pass a VST. It is the responsibility of the licence holder to notify the Council that this requirement has been satisfied. The Council may suspend

the use of the licenced vehicle until it is suitably repaired and conforms to the testing requirements.

A licensed vehicle which has suffered major accident damage or requires substantial mechanical repair may be temporarily replaced by another vehicle provided that the damage or defect has been reported to an Authorised Officer, and the replacement vehicle meets the requirements of this Guidance and is suitable to be used for hire purposes.

### **Internal Signage**

All vehicles must display a Council issued internal sign containing the plate number which must be visible from outside the vehicle and the comments section visible from inside the vehicle.

'How Did I Do' stickers are mandatory for all licensed vehicles and must be placed on either the headrest of the driver's seat or passenger's seat facing the passengers. These stickers will be provided by the Council's Licensing Team.

### **CCTV (Implementation date 31 October 2023)**

1. The Council considers that it is important to mandate the requirement for CCTV in all licensed vehicles to protect the travelling public and drivers. The Council considers that the security of drivers and passengers is of paramount importance and CCTV can be a valuable deterrent and useful to confirm or rebut complaints made against drivers.
2. The Council understands that there is a need to balance its responsibilities to protect drivers and the travelling public with the individual's privacy rights.
3. CCTV equipment are to be installed and operated in all licensed hackney carriage and private hire vehicles (other than private hire vehicles issued with a plate exemption for executive and VIP work and those vehicles used solely for this purpose).
4. The system must be approved by the Council which will maintain a list of such CCTV systems and approved providers on a list available on its website. For those vehicles that have a CCTV system installed before the implementation of compulsory CCTV those systems may be allowed at the discretion of an Authorised Officer.
5. All CCTV media and its data must secure, password encrypted and not accessible to anyone other than the data controller or their appointed administrator or agent.
6. The Council will become the Data Controller and will publish a Data Protection Statement.
7. The CCTV systems must be installed in vehicles.
8. The installation and operation of the CCTV systems shall comply with the requirements of the Information Commissioner's CCTV Code of Practice and the Home Office Surveillance Code of Practice. The CCTV system shall comply with any legislative requirements as regards safety, technical acceptability and operational/data integrity.

9. The CCTV system shall comply with any legislative requirement as regards safety, technical acceptability and operational/data integrity.
10. The CCTV system will always remain the property of the proprietor of the vehicle who will be responsible for the maintenance of the system and will ensure that it is checked regularly and always maintained in working order.
11. It will be the responsibility of the driver of a vehicle to report to the Council within 48 hours any breakdown of or other issues that may affect the efficient working of the CCTV system.
12. Any failure to install, maintain or operate a system is likely to lead to the vehicle licence being suspended, revoked or the licence not being renewed. Such a failure may also call into question the fitness and propriety of the driver.
13. The CCTV system must be capable of date, time and vehicle identification. It must be capable of capturing images during daytime and darkness of sufficient quality to enable the identification of any person travelling in the vehicle and be of such quality that it can be used for prosecution purposes, where necessary.
14. The positioning of the CCTV camera and hardware should be such that the hard disc or data card is not accessible to any passenger travelling in the vehicle. The equipment must be securely fixed such that it cannot be tampered with or damaged by any person travelling in the vehicle.
15. The CCTV system shall not be used to record conversations between members of the public, since that is highly intrusive, and if any system is equipped with a sound recording facility, then that functionality shall be disabled by default EBC permit audio recording but limited to: Vehicles driven during home to school journeys; and with the use of a trigger switch to turn audio on (for use by driver and/or passenger).
16. All vehicles with a CCTV system shall display prominent notices, visible both outside and inside the vehicle, to inform passengers that a CCTV system is in operation. The signage shall include where a subject access request may be made.
17. An Authorised Officer or Police Officer may, on reasonable notice, examine any camera installation or any footage from the CCTV. Failure to present a vehicle for CCTV download inside a timely manner may question the drivers fit and properness
18. The Council shall be permitted to access data where they have received a complaint involving the vehicle or its driver and the complaint cannot be fully investigated without access to the recording. Any material recorded on the CCTV equipment shall only be used as evidence in court proceedings or to aid the investigation of crime, to confirm or rebut complaints made against the driver or as evidence in motor insurance matters. The licence holder shall co-operate with any Police investigation where access to the CCTV footage may assist.
19. The driver of the vehicle and or Operator will not attempt to access, or tamper with the CCTV equipment or attempt to download or tamper with any of the equipment or data

20. The CCTV system must be capable of recording and storing images for a minimum of 35 days.
21. All CCTV installations will be accompanied with a CCTV Compliance certificate that must be kept in the vehicle at all times, and presented when requested to do so by an authorised officer
22. A vehicles CCTV will undergo yearly checks with the CCTV Supplier that installed the system. At these checks a new Compliance certificate will be issued (Valid for 1 year)
23. All new applicants will be required to present an in date valid CCTV Compliance certificate as part of the application process.
24. Upon vehicle renewal applicants will need to present a valid in date CCTV Compliance certificate as part of the renewal process. Failure to present a valid CCTV Compliance certificate may result in the vehicle licence renewal being refused

## **Vehicle Specification**

The Council's general specifications are:

Vehicles shall be fitted with a minimum of four side doors of a size to permit easy access.

Vehicle engines shall meet the following Euro standards. Diesel powered vehicles shall meet the Euro 6 standard for emissions and petrol vehicles the Euro 4 standard.

The vehicle shall be designed to permit the specified number of passengers to be carried in comfort and safety. The rear 3 seats will measure at least 48 inches wide and any additional seats will measure at least 16 inches wide.

The vehicles shall be provided with adequate luggage space for the number of passengers for which the vehicle is licensed.

Vehicles may be of the saloon, estate, hatchback or MPV type and all vehicles must be approved by the Council. Estate vehicles must be fitted with a grill or parcel shelf sufficient to prevent luggage coming into contact with passengers using rear seats.

Left hand drive vehicles will not normally be licensed, except with the agreement of an Authorised Officer.

A comprehensive vehicle specification list shall be available on the Council's website.

## **Written Off Vehicles**

There are several categories for vehicles that have been classed as being written off. These range from vehicles that cannot be repaired to vehicles which could potentially be repaired to a roadworthy condition. However, there are difficulties in establishing that any repairs have been completed to a professional standard. Therefore, the Authority will not license any vehicle that has been classed a 'write off' in any category.

## **Stretched Limousines and Other Specialist Vehicles**

Any stretched limousine capable of carrying eight passengers or less which is offered for hire will require a licence.

For the purposes of this Guidance a stretched limousine is a motor vehicle that has been lengthened by the insertion of an additional body section and modified by a coachbuilder to contain luxury facilities and fixtures that is capable to carrying up to but not exceeding 8 passengers.

The Individual Vehicles Approval Inspection regime introduced by the Vehicle and Operator Services Agency will apply to all limousine and speciality vehicles that do not meet the standard vehicle specification.

The Council recommends that anyone wishing to licence a limousine or specialist vehicle should contact the Council before purchasing a vehicle to ensure that advice is given about meeting the required standards.

## **Funeral and Wedding Vehicles**

There is no requirement for a vehicle to be licensed when it is being used in connection with a funeral or is being wholly or mainly used by a person carrying out the business of a Funeral Director for the purposes of funerals.

A vehicle does not need to be licensed whilst it is being used in connection with a wedding. For clarification, the exemption only applies to journeys directly relating to the wedding service itself for example transporting the bride/and or groom to the wedding service, from the service to the reception and from the service/reception to home. Transport to other locations such as the airport would be considered a licensable activity.

## **Wheelchair Accessible Vehicles**

Wheelchair Accessible Vehicles must always have the appropriate equipment available to carry wheelchair customers and in working condition otherwise the vehicle licence will be immediately suspended.

## **Ambulance and Other Patient Transport**

Ambulances defined by, 'vehicles conforming to original manufacturers specifications and equipped and used for the carriage of sick, injured or disabled people with permanent rear compartment and means of carrying passengers in a recumbent position together with an attendant seat for use by accompanying medical professionals, readily identifiable as a vehicle used for the carriage of such people by being marked ambulance on both sides', will be exempt from private hire vehicle licensing.

In addition, the Council will exempt from licensing those vehicles being used by volunteer drivers (unpaid) to take patients to and from hospital.

## **Courtesy Vehicles**

Courtesy vehicles used for example for transporting customers to and from garages, airports, hotels and night clubs without charge but with a clear business benefit should be licensed even though there may not be a separate charge for using the vehicle. For clarification, in addition the operator and the driver should also be licenced.

### **Executive Private Hire Vehicles**

The Council does not anticipate granting Livery Exemptions to vehicles that are used for what would be termed 'day to day private hire work' such as, but not limited to - school runs, home to railway stations, airports, places of interest, hospitality venues, shopping trips etc.

The Council does not consider this type of work to be compatible with the granting of a Livery Exemption.

If granted the vehicle must not be used for private hire purposes other than for chauffeur use (i.e. not for 'normal' airport journey's or daily private hire use).

In the interests of public safety, which is the main reason for the display of Livery, it does not consider a vehicle should combine exempt and non-exempt work. There are several private hire operators within this and neighbouring Council Areas that provide exclusively 'Executive' vehicles to satisfy local demand.

For all new/existing livery exemption vehicles, annual checks will be made to ensure the criteria for exemption is being met.

The Livery exemption will be withdrawn if the vehicle is found to be undertaking any private hire day to day work as previously mentioned above.

### **Dual Plating**

The Council will not grant a vehicle licence for any vehicle already licensed by another licensing authority.

## **Part 4: Drivers**

### **Licences**

The Council issues the following types of drivers' licences:

- Dual Drivers – holding both a hackney and private hire drivers' licence

All new and renewal driver licences will be granted for 36 months from the date of issue

The only exceptions to these principles are:

- a) In cases where the licence holder is working under visa conditions attached to their passport the licence will only cover up to the expiry date on the visa.
- b) Where the Council considers it appropriate in exceptional circumstances.
- c) The financial circumstances of the applicant will not be deemed as an exceptional circumstance

The statutory and practical criteria and qualifications for all drivers are broadly the same. Therefore, this section applies equally to hackney carriage, private hire, dual and restricted private hire drivers unless otherwise stated.

### **Age and Experience**

The Guidance does not set a minimum age limit for new drivers. However, a licence will not be granted to anyone who has not held a full DVLA or equivalent driving licence, for a period of at least twelve months immediately prior to the application.

An applicant who meets the licensing requirement by virtue of an acceptable non-UK driving licence must obtain a full UK driving licence within 12 months of the issuing of the driver licence. Where this requirement is not satisfied the driver's licence will be automatically suspending pending compliance. This requirement is to ensure appropriate regulation of any penalty points issued by the courts in relation to road traffic offences and is an integral part of the 'fit and proper person' test.

There is no maximum age limit for drivers but once the licence holder reaches the age of 65, they will be required to provide to the Council annual medical checks.

### **Fit and Proper Test**

Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee.

The test used by this Authority when considering whether a licence holder is a 'Fit and Proper' Person is:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence. All decisions on the suitability of an applicant or licensee will be made

on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and will take into consideration conduct that has not resulted in a criminal conviction.

## **Driver Tests**

Applicants will be required to meet the following tests as detailed below.

### **1. Knowledge Test**

The knowledge test includes a series of questions. For dual driver license applications this includes locations of places of interest, routes, policy and law, Highway Code, road signs, numeracy, equalities, safeguarding, and disability awareness.

Applicants are limited to three attempts at the test per application and the test must be passed within six months of receipt their application. If they fail the tests, their application will be rejected, and they must wait for at least six months before reapplying.

Any person found cheating will be disqualified from the test and will not be granted a licence for at least three years.

Applicants are required to provide photographic identification on the day of the test, for example a passport, and if they fail to provide photographic ID their test will be cancelled.

The cost of the first test is included in the application fee. Each subsequent test is paid for at the time of booking and the fee is non-refundable.

### **2. Driving Proficiency Test**

New applicants are required to undertake a driving proficiency test to an equivalent standard required by the Driver Standards Agency (DSA). Details of local companies who offer the test will be provided at the application stage.

### **3. Medical Examination**

In order to promote the Council's public safety objective, it is a requirement for an applicant to provide a Group 2 medical assessment from a registered medical practitioner confirming their fitness to drive.

This requirement to produce a medical assessment applies to any applicant unless the applicant is the holder of a current passenger services vehicle or heavy goods vehicle licence and can provide proof of medical examination undertaken in the three months prior to the application being made.

A current licence holder must advise the Council forthwith if there is any deterioration in their health that may affect their driving capabilities.

Licensed drivers are required to have a medical assessment at least every five years from the ages of 45 to 65 and after the age of 65 to provide an annual medical assessment. The

Council may also require a driver to provide more frequent checks if in the opinion of a medical practitioner that is necessary.

The prescribed form is available from the Council. The medical examination will normally be carried out by the applicant's GP, but can be from any other medical practitioner, if an Authorised Officer agrees, who has accessed the applicant's medical records for at least the last two years. On completion the form must be submitted to the Council.

In addition, drivers between the ages of 60 to 65 years of age must pass an annual eyesight test.

The applicant/licence holder will be responsible for any fees incurred in obtaining a medical examination.

### **Disclosure & Barring Service (DBS) Disclosures**

A DBS check on a driver is an essential safety measure in assessing whether an applicant is suitable to hold a licence, therefore an Enhanced Disclosure provided by the DBS is required for all applicants whether in relation to new or renewal applications.

All new/existing drivers are required to undergo a 6 monthly DBS check.

The Rehabilitation of Offenders Act 1974 (as amended) does not apply to applicants for drivers licences therefore applicants are required to disclose all convictions etc including those that would normally be regarded as spent but only relevant 'spent' convictions will be considered by the Council. Further details are provided in Appendix 2 Guidelines on Relevance of Convictions etc.

All new applicants for a driver's licence will be the subject of a Disclosure Barring Service (DBS) Enhanced Disclosure check. The Council is an approved (DBS) body; Checks will be carried out by the Council via an approved company. Applicants will be charged the appropriate fee.

All new applicants that have lived outside of the UK for any period over six months, as an adult, must provide a Certificate of Good Conduct from each and every country where they resided for a period of more than three months. If a Certificate of Good Conduct cannot be provided, then written reasons as to why it cannot be provided must be supplied and those reasons will be considered by an Authorised Officer.

In the case of renewal applicants who have been out of the UK for a period of more than six months they will need to provide a Certificate of Good Conduct from overseas for each and every Country that they have resided in. If a Certificate of Good Conduct cannot be provided, then written reasons as to why it cannot be provided must be supplied and those reasons will be considered by an Authorised Officer.

All Certificates of Good Conduct must be translated into English by an accredited translator and accompanied by a declaration to that effect.

An Enhanced DBS check of Criminal Convictions for current drivers will be carried out by the Council every six months. This will be carried out by way of the DBS Update Service (see below for details) or the more traditional method of obtaining a paper record. Licensed Drivers must be aware that the Council considers it imperative that all drivers subscribe to

the Update Service. The Council can also request another disclosure at any time if a further check is considered necessary.

The DBS Update Service allows the applicant to pay a subscription fee direct to the Disclosure and Barring Service, in return for ongoing monitoring of the official records for information relating to the applicant. Subscribers will be able to give employers and licensing authorities permission to carry out a status check, in order to verify whether an original DBS certificate remains valid, even if it is several years later. Therefore, we will allow taxi and private hire drivers to use the update service as an alternative to obtaining a new certificate every six months. In such cases, the original certificate that the Update Service relates to must initially be produced to the Licensing Department for verification that it is suitable.

The applicant must have subscribed within 30 days of the issue of the last certificate. If the subscription lapses, or if the driver doesn't subscribe and police records show new information since the certificate was issued, we will not be able to obtain a status check, and the applicant will need to apply for a new disclosure certificate at their own cost.

Drivers are expected to sign up to the Disclosure and Barring Service (DBS) update service (annual fee payable). This will speed up the licence application and renewal process. Drivers must be able to provide evidence of continuous registration and nomination throughout the duration of their licence. <https://www.gov.uk/dbs-update-service>

All licensed drivers will be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Should the check reveal that new information is available the DBS certificate will no longer be relied upon and a new DBS certificate will be requested.

All applicants are required to disclose if they have ever held a licence with any other Authority and additionally if they have ever had a licence refused, revoked or suspended by any other licencing authority. Where an applicant has made a false statement or a false declaration or omitted this information on their application for the grant or renewal of a licence, the licence will normally be refused. The Authority will check all new applicants against the National Revocation and Refusals Register.

The Authority is bound by the rules of confidentiality and will not disclose information obtained to any third party save as required by the law. The applicant for an Enhanced Disclosure will be sent a certificate to their home address and will need to provide the original to the Council.

### **Common Law Police Disclosure/Referrals to the Police/DBS**

In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS/Police. A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS. The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. The Licensing Authority will make a referral to the DBS/Police when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult and an individual has satisfied the 'harm test' or

- received a caution or conviction for a relevant offence, and
- the person they are referring is, has or might in future be working in regulated activity; If the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

### **What is the harm test?**

A person satisfies the harm test if they may harm a child or vulnerable adult or put them at risk of harm. It is something a person may do to cause harm or pose a risk of harm to a child or vulnerable adult.

### **National Register of Taxi Licence Refusals and Revocations.**

The licensing authority provides information to the National Register of Taxi Licence Refusals and Revocations (NR3). This allows licensing authorities to share details of individuals who have had a hackney carriage, private hire or dual driver's licence revoked, refused or suspended. Refusal of a new application or a renewal of the licences, already mentioned, will also be shared. All applications for a new licence or licence renewal will automatically be checked on NR3. Any information received as a result of an NR3 search will only be used in respect of the specific license application and will not be retained beyond the determination of that application.

All other Local Authorities have a duty to report to us any issues with our drivers/vehicles and we have a duty to reciprocate this with all other Local Authorities.

### **DVLA Licence Checking**

In order to ensure the Council, have a driver's complete driving history the Council will check with the DVLA for all new applications and upon renewal.

Any discrepancies between the DVLA record and the applicants driving licence will be brought to the attention of the DVLA and the Police, as appropriate.

All new applicants and current drivers applying for renewal of their licence will be subject of a DVLA check of the driving record. A licence will not be issued or renewed until this check is complete and the results considered. It complies with the Council's Guidance on convictions (See Appendix 6.)

Since the abolition of the Driving Licence paper counterpart the Licensing Department have been unable to easily check current driving endorsements that may have accrued.

Local Authorities are no longer able to request an extended mandate for an extract of an applicant's driving history. The DVLA provides a free service to check a driver's current endorsements. This service will be used by the Council for all new and current drivers so the Licensing Authority can ensure drivers remain 'fit and proper' persons.

All new applicants and existing licensed drivers will be expected, and conditioned, to provide a shared driving licence code in order that relevant checks can be made of the DVLA online service.

Checks may also be made by the Council, requiring the applicant or licensed driver to provide a shared DVLA driving licence code at other times. This will either be where the Council believes an applicant or licence holder has been convicted of an offence not previously declared, there has been a delay in the application process and the Council wish to ensure they have updated details before determining an application or, as part of periodic compliance checks of licensed drivers.

If an applicant is unable to use the free Shared Driving Licence Service, he/she will be required to give written consent to the Council to apply to the DVLA for their driver record. The applicant must pay the reasonable administrative fees of the Council as well as those of the DVLA. Utilising this service will result in delays in the Council processing an application.

### **His Majesty's Revenue and Customs**

The grant of a licence is subject to a check being made with the HMRC in respect of registration for paying income tax. The check is carried out at first application (by declaration) and upon renewal by supply of a tax check code, officers will not be privy to any financial information. Each applicant must supply a HMRC check code for officers to make appropriate checks via gov.uk. upon renewal. A licence will not be granted without this

### **Right to Work**

In addition, all applicants will be required, prior to the grant or renewal of the licence, to demonstrate their right to work in the UK and details are contained in Appendix 6.

### **English Language Proficiency Test**

#### New Applicants

- a. All new applicants for a hackney and private hire dual drivers licence will be required to undergo a proficiency test to demonstrate their ability to communicate effectively in the English Language.
- b. The test will be conducted in a form approved by the Council.
- c. An outline of the test requirements can be found at Appendix 10
- d. Any person found cheating will be disqualified and will not be granted a licence for at least three years. (in line with Knowledge Test cheating)
- e. In the event that a test is not passed retesting will be at the applicants cost.
- f. Applicants are limited to three attempts at the test per application. If they fail the tests, their application will be rejected, and they must wait for at least six months before reapplying.
- g. More details of the contents of test can be found [here](#).

#### Current Drivers

- a) Current drivers appearing before the Licensing Sub Committee may be required to take the English language proficiency test should the Committee consider that the driver's spoken English is inadequate. Each case will be considered on its merits.
- b) Any current driver found cheating will be disqualified and will not be granted a licence for at least three years. (in line with Knowledge Test cheating)

## **Disability Awareness and Safeguarding Training**

All new applicants and current licensed drivers are required to undertake recognised Disability Awareness and Safeguarding training as part of their professional development. The training must be provided by an agreed supplier to ensure that all drivers operate to a consistent standard and can provide a safe and suitable level of transport service to disabled and vulnerable passengers. Existing Eastbourne Borough Council licensed drivers that have not previously undergone recognised Disability Awareness/Safeguarding training must attend a session within 12 months from implementation of this revised Guidance. Failure to attend this training during the timescales outlined above will result in the licence being suspended until the training has been successfully attended.

## **Offences**

Existing holders of driver's licences are required to notify the licensing authority in writing within 48 hours of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the licensing authority within 48 hours of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the licensing authority as to the honesty of the licence holder and will be considered as part of any subsequent renewal applications or licence review.

## **Conditions**

The Council is permitted to apply conditions to private hire drivers' licences as it may consider reasonably necessary and those are contained in Appendix 3.

The Council is not permitted to apply condition to hackney carriage drivers but instead byelaws apply as contained in Appendix 2.

## **Duration**

The Council will licence drivers in accordance with the conditions outlined on page 10 above.

## **Part 5: Private Hire Operators**

Any person who operates a private hire service using one or more private hire vehicles must have a private hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.

An operator must ensure that every private hire vehicle has a current private hire vehicle licence and is driven by a person who holds dual/restricted private hire drivers' licence. All three licences, operator, driver and vehicle must be issued by the same licensing authority.

### **Conditions**

The Council has the power to impose such conditions on an operator's licence as it considers reasonable, necessary and proportionate. These are found at Appendix 3.

### **DBS Disclosures**

Before an application for an operator's licence will be considered the applicant will be subject of a Basic Disclosure from DBS or a Certificate of Good Conduct. Applicants that hold a current driver's licence with the Council will be exempt from this requirement. A reference covering the applicant's financial records and/or business history may also be considered appropriate in some instances.

Private hire operators, who are not also licensed drivers, are required to provide a basic DBS Disclosure certificate every 12 months.

Drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff. There is a person taking bookings (be it by phone or in person), the vehicle dispatcher who decides which driver to send to a user. These are positions that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults and the Authority should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public.

Operators will be required as a condition of granting an operator licence, to keep a register of all staff that will take bookings or dispatch vehicles.

Operators will be required to evidence that they have had sight of an annual basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. Operators will have to provide their policy on employing ex-offenders in either of these roles.

### **Public Liability Insurance**

The Council may check that appropriate public liability insurance has been taken out for premises that are open to the public. Before an application for an operator's licence is made the applicant must either produce evidence that they have taken out appropriate public liability insurance for the premises to be licenced or signed a declaration that their premises are not open to the public.

## **Address from which the Operator may operate**

The Council will specify on the licence the address from which the operator may accept bookings and dispatch vehicles. The operator must notify the Council in writing of any proposed change of address during the period of the licence. The operator may not change the operating address until such time as the change has been approved by the Council.

The Council will not grant an operator's licence for an operating base that is outside the borough. This is to ensure that proper regulation and compliance measures may be taken by the Council and is in no way intended to be a restraint of trade.

## **Sub-contracting of Private Hire Bookings**

A licensed operator may subcontract a booking to another licensed operator, whether in the same borough or not. Both operators must be licensed within the area in which their operating base is located and should record details of the booking.

The initial booking must be taken within the area in which the operator is based, and the subcontracted booking must be taken within the area in which the subcontracted operator is based.

## **Right to Work**

All applicants will be required prior to the grant of the licence to demonstrate their right to work in the UK and details are contained in Appendix 5.

## **Licence Duration**

The Council will ordinarily issue a successful applicant an operator's licence with a five-year licence subject to the power to grant a licence for a year should this be appropriate in the circumstances or requested.

## **Complaints about Drivers**

All Operators are required to keep a record of all complaints received. These records must be made available for inspection by the Authorised Officer on request. Operators are required to advise the authority when any driver is subject to any complaints regarding safeguarding, dishonesty, abusing customers or more than one complaint which does not fall into these categories in any 12 months.

## **Part 6: Application and Renewal Process**

This section of the Guidance is intended to give an indication of the application process relating to all application types. The Council notes that there are no prescribed time scales for dealing with applications, but it will endeavour to deal with all applications in a timely manner.

### **Vehicles**

An application for a vehicle licence will only be considered complete when all the following components have been received:

- Prescribed application form fully completed
- Appropriate fee
- V5 registration document
- Current valid insurance certificate of cover note
- VST

### **Drivers**

An application for a drivers' licence will only be considered complete when all the following components have been received:

- Prescribed application form fully completed
- Appropriate fee
- Current valid full driving licence
- Approved Driving Assessment
- Enhanced DBS disclosure and/or Certificate of Good Conduct (as appropriate)
- Knowledge test pass
- Medical certificate
- English Language Proficiency Test pass
- Proof of right to work in the UK (new applicants and existing drivers where applicable)
- A passport sized, clear and easily identifiable photograph of the applicant
- Proof of identity. Applicants must submit one form of proof of address such as a utility bill (the proofs of address should not be more than three months old)

- DVLA Check Code
- Proof of passing the training for Disability Awareness and Safeguarding.
- Tax code

## **Operators**

An application for an operator's licence will only be considered complete when all the following components have been received

- Prescribed application form fully completed
- Appropriate fee
- Inspection of the operating premises by an Authorised Officer
- Proof of Public Liability Insurance (as appropriate)
- A professional financial or business reference
- Basic Disclosure/Certificate of Good Conduct unless already licensed as a driver with the Council.
- A register of all staff that will take bookings or dispatch vehicles.
- Evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff.

The application form, appropriate fees and all supporting documentation should be submitted at least fourteen days prior to the expiry of the previous licence. Incomplete applications may be returned to the applicant for resubmission when complete. An application will not be processed without all supporting documentation being received which satisfies the requirements of this Guidance.

If a licence has not been issued at the point when an existing licence expires the licence holder must cease operating until the new licence has been received.

## **Renewal of Licences**

### **Process**

- a. It is the responsibility of the licence holder as appropriate to ensure that applications are submitted to the Council for renewal in good time.
- b. The Council will send notification of an impending renewal to licence holders with 28 days' notice.
- c. All applications for renewal must be submitted to the Council with all relevant documentation and the correct fee at least 14 days before the expiry date.

- d. Late or incomplete applications may result in the licence holder being unable to work until it has been determined.
- e. A renewal application received after the expiry date is not deemed to be valid. Therefore, a refusal by the Council to renew the licence, in those circumstances, may only be legally challenged by way of judicial review.
- f. There may be 'exceptional' circumstances' that allow the Council to consider applications received after the expiry date. These exceptional circumstances apply if the renewal application is received no more than three days late and the licence holder provides a good reason for the delay. These will be considered on a case-by-case basis. The Council will be guided by relevant case law in this matter notably *R (on the application of Exeter City Council) v Sandle*.
- g. The Council will from time to time have to deal with situations where it may not be possible to determine renewal applications on time. These may include but are not limited to national emergencies and situations beyond the control of Local Government.
- h. The Local Government (Miscellaneous Provisions) Act 1976 does not allow expired licences to be extended. It is the responsibility of the owner/driver/proprietor as appropriate to ensure that applications are submitted to the Council for renewal in good time.

In such circumstances the following procedure will apply:

- i. If the Council is unable to determine applications in the required time, it will issue a short-term licence from the date of expiry until the date that a proper determination can be made.
- j. This is dependent upon the application being made before the expiry date of the current licence.
- k. In these cases, a 'short term licence' will be marked clearly as 'Issued without prejudice' thus recognising the Council has been unable to correctly assess all relevant documentation.

Sections i – k above does not include circumstances where an applicant has failed to submit the relevant application, fee or documentation on time.

### **Consideration of Applications**

Unsuccessful applicants will be informed of the Council's reasons for the refusal and their right of appeal against the decision to the Courts.

## **Part 7 – Disciplinary and Enforcement Measures**

### **Enforcement**

It is recognised that well directed enforcement activity by the Council benefits not only the public but also the responsible members of the hackney carriage and private hire vehicle trade. In order to balance the protection of public safety with the need to prevent unnecessary interference in a licence holder's business, the Council will ensure that its enforcement is reasonable, proportionate, transparent and consistent. Enforcement action will not normally constitute a punitive response to minor technical contraventions, but repeated minor technical contraventions will be subject to appropriate action.

### **Complaints against licence holders**

All complaints will be fully investigated and will often involving the taking of statements from the complainant, driver and any witnesses. An Authorised Officer will consider all evidence and mitigating circumstances arising from the investigation before referring the matter to the Senior Specialist Advisor, if appropriate. The outcome of any complaint will be advised to the complainant in the form of a written response.

### **Referrals**

Whilst the day-to-day enforcement of licensing is a function carried out by Authorised Officers serious or repeated disciplinary matters will be referred to the Senior Specialist Advisor in the first instance and at his discretion to the Licensing Sub Committee or exceptionally to the full Licensing Committee. Therefore, any reference to Senior Specialist Advisor in this part also means Licensing *Sub-Committees*.

The Senior Specialist Advisor will consider the impact of transgressions on the fitness of an individual to hold a licence and take appropriate action.

### **Enforcement and Disciplinary Meetings/Hearings**

Where the Senior Specialist Advisor is considering disciplinary and/or enforcement action against a licence holder, the licence holder will be entitled to attend a meeting with them to answer allegations and/or provide any mitigating circumstances, if they wish to do so.

Prior to attending the meeting, an Authorised Officer will provide a written report containing all the information necessary to understand the allegation(s), the relevant sections of this Guidance, the options available and any other relevant information. The report will be provided to the licence holder at least five working days prior to the meeting.

Following such a meeting or when the licence holder does not require such a meeting the Senior Specialist Advisor may decide to take one or more of the following actions:

- No action
- Informal advice (verbal or written warnings)
- Issue Penalty points
- Require the production of driving licences or other specified documentation
- Use statutory notices (section 68 stop notices, etc.)
- Suspend a licence

- Revoke a licence
- Authorise a Fixed Penalty Notice (FPN) (after consultation with the Councils Legal Section)
- Authorise a Caution (after consultation with the Council's Legal Section)
- Authorise prosecution action (after consultation with the Council's Legal Section)
- Other appropriate action as deemed necessary, including any combination of the above. For example, where concerns are raised about a driver's standard of driving; the driver may be required to pass an appropriate driving standard assessment at the discretion of the Council. Failure to achieve a pass within a specified period will result in the suspension of the driver until such time as a pass is achieved. Where necessary for public safety a driver may be suspended immediately until such time as a pass is achieved.

For clarification, if the Senior Specialist Advisor passes the matter on for consideration by the Licensing Sub Committee a hearing will always be held regardless of the presence of the driver, proprietor or operator.

### **Penalty Points Scheme**

The Council have introduced a Penalty Points Scheme for drivers and operators. The aim of the penalty point scheme is to work in conjunction with other enforcement options. It provides a formalised stepped enforcement plan.

The purpose of the scheme is to record misdemeanours and to act as a record of driver's behaviour and conduct to ascertain whether they are a fit and proper person.

It does not prejudice the Council's ability to take other actions. The primary objective of the penalty points scheme is to improve the levels of compliance and help improve the standards, safety and protection of the travelling public.

The scheme is explained at Appendix 7

### **Suspension**

#### **Vehicles**

Vehicles must be kept in an efficient, safe, tidy and clean condition always. Compliance with the vehicle specification and conditions of this Guidance is essential and will be enforced by random vehicle inspections by the Council. Where it is found that any vehicle is not being properly maintained, a defect or defects notice will be served on the licence holder setting out the defect or defects and the required action.

Where there is a risk to public safety the further use of the vehicle will be suspended until the defect or defects have been remedied. The suspension will not then be lifted until the vehicle has undergone a further test at a DVSA approved garage in the Borough, at the licence holder's expense, and the vehicle meets the requirements of this Guidance.

#### **Drivers**

The Council may exercise its discretion to suspend the operation of a driver's licence for a specified period at the discretion of the Senior Specialist Advisor.

## **Revocation**

The Senior Specialist Advisor may revoke the licence. Ordinarily, any revocation is stayed pending the period for appeal expiring or in the case of an appeal the appeal being determined. Where necessary for public safety, the Senior Specialist Advisor may determine that a revocation takes immediate effect and is not stayed pending any appeal.

## **Refusal to Renew**

As an alternative to revocation, the Senior Specialist Advisor may decide that the appropriate action, in a situation where the licence is shortly to expire, is to order that the licence shall not be renewed. The Senior Specialist Advisor may suspend the existing licence for the remainder of its licence period depending on the individual merits of the case in conjunction with discussion with the councils' legal team where necessary.

## **Section 68 (Stop) Notices**

An Authorised Officer or a Police Officer may serve notice in writing for a vehicle, or the taximeter affixed to such a vehicle, to be examined at a DVSA approved garage in the Borough at a time specified in the notice. This notice may only be served if there are concerns as to the condition of the vehicle or the accuracy of the taximeter.

In addition, the vehicle licence may be suspended until such time as the Council's testing requirements have been complied with if it is deemed necessary for public safety. The suspension notice will remain in force until an Authorised Officer has issued written confirmation that the Council's testing requirements have been met.

If an Authorised Officer is not satisfied that appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two months from the date of issue the vehicle licence will be deemed automatically revoked.

## **Cautions and Fixed Penalty Notices**

In the interests of natural justice before a Caution or FPN is administered there must be sufficient evidence of guilt to give a realistic prospect of a conviction, the offender must admit the offence and the offender must understand the significance of the Caution or the FPN and give informed consent.

Where a person declines the offer of a Caution or a FPN, it will be necessary for the Council to consider taking alternative enforcement action. Whilst this would ordinarily mean prosecution this is not inevitable.

## **Prosecution**

The decision to prosecute is significant as it may impact on the licence holder's future employability. Generally, the circumstances that may warrant a prosecution include, but are not limited to:

- Blatant or repeated disregard for legislation and/or this Guidance, particularly where the economic benefits for the breaches are substantial

- When there has been blatant and/or reckless disregard for the safety of passengers or other road users

## **Part 8. Equalities and Accessibility**

The Council is committed to social inclusion through ensuring a wide range of opportunities are available to disabled passengers.

The Council seeks to ensure disabled passengers are better informed about the accessibility of vehicles in the Borough, can be confident in receiving any assistance they require and are able to travel by taxi and private hire vehicles free from any discriminatory treatment.

The Council will actively encourage the licensing of sufficient accessible vehicles.

The Council requires all drivers and operators to be compliant with the relevant provisions of the Equality Act 2010 (as amended) and any subsequent legislation. The Council notes that on 28 June 2022 the Taxi and Private Hire Vehicles (Disabled Persons) Act 2022 came into effect and amended the Equality Act 2010 to introduce new, and amend existing, duties for local authorities and hackney carriage and private hire vehicle drivers and operators.

Please see link below to guidance for reference

[Access to taxis and private hire vehicles for disabled users - GOV.UK](#)

A driver must accept the carriage of any disabled person and must not make, or propose to make, any additional charges. The driver must take such steps as are reasonably necessary to ensure that the disabled passenger is carried in safety and reasonable comfort. The driver shall carry any mobility aids and/or wheelchairs. Any non-exempt driver shall provide such mobility assistance as is reasonably required by any disabled passenger.

The requirement not to charge a disabled person extra means, for example, that a meter should not be activated, or left running whilst the driver performs duties required by the Equality Act 2010 (as amended).

A driver of a pre-booked vehicle shall assist any disabled person in identifying and finding the vehicle and must not make, or propose to make, additional charges for doing so. This is provided the driver is made aware the passenger requires such assistance before the start of the journey. This duty is intended to be helpful for visually impaired passengers or those with learning disabilities or cognitive impairments.

The Council recommends that drivers and operators ask every passenger whether they require assistance, and if so what form of assistance is required. For hired vehicles this should be at the booking stage and for taxis this should be when the vehicle is hailed, or the driver is approached.

The Council would strongly encourage operators, where applicable, to update their booking websites and smartphone applications to collect relevant information from their passengers about their requirements.

The Council notes it is an offence under the Equality Act 2010 (as amended) for operators to refuse or fail to provide a booking for a disabled person either because the person is disabled or to prevent a driver from being made subject to a duty which would otherwise be imposed on the driver, subject to a suitable vehicle being available.

## **Designated List of Wheelchair Accessible Vehicles**

The Council must maintain and publish a designated list of wheelchair accessible vehicles in the Borough. This list can be found on the Council's website. Hard copy and alternative accessible versions of the list may be requested.

A vehicle will be placed on the designated list if it is possible for the user of a "reference wheelchair" to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair. More details on "reference wheelchairs" can be found on the Council's website.

The Council recognises this means some types of wheelchair users may be unable to access some vehicles on its list. The Council will ensure that the list includes information about the size and weight of wheelchairs which can be accommodated including whether the vehicle can accommodate wheelchairs which are larger than the "reference wheelchair" standard.

The Council will notify the vehicle owner, before publishing, that their vehicle is to be placed upon the list.

The decision by the Council to place the vehicle on the designated list can be appealed to the Magistrates' Court within 28 days beginning with the date of inclusion.

A driver of a designated wheelchair accessible vehicle shall carry a wheelchair user without charging extra. The driver shall carry the passenger while in the wheelchair, or if the passenger chooses to sit in a passenger seat the driver shall carry the wheelchair and/or any mobility aids. The driver shall take such steps as are necessary to ensure the passenger is carried in safety with reasonable comfort. Any non-exempt driver shall provide mobility assistance as is reasonably required.

## **Assistance Dogs**

Drivers shall carry an assistance dog and allow the dog to remain with their user without making, or proposing to make, an additional charge for doing so. Operators must not refuse or fail to accept a booking from or on behalf of an assistance dog user.

As a result of the new Taxi and PHV (disabled persons) Act 2022, from 28 June:

- All taxi and PHV drivers may apply for an exemption certificate and notice on medical grounds or where their physical condition prevents them from performing the mobility assistance duties at sections 164a and 165 (as added/amended by the 2022 Act).
- Both existing and new exemption notices, when displayed correctly, will exempt a driver only from the mobility assistance duties at sections 164a and 165 - meaning, for example, that a driver's medical condition can no longer be used as a justification for charging a disabled person more than a non-disabled person

## **Driver exemptions**

The Council acknowledges how some drivers may have a physical condition or medical grounds which makes it impossible or unreasonably difficult for them to provide the

mobility assistance duties required by the Equality Act 2010 and/or medical grounds relating to their duties to carry assistance dogs.

The Council may exempt drivers if it is satisfied it is appropriate to do so. Drivers who wish to be exempt must apply, in writing, to the Council setting out their supporting evidence.

The Council will accept evidence from the driver's own GP in support of an exemption period of no more than three months. Applications for exemptions beyond three months will only be considered when supported by evidence from the driver's medical consultant and that decision will be determined by a Senior Specialist Advisor. Applications for exemptions beyond six months will be determined by a Licensing Sub Committee.

If a medical exemption is granted the driver will be issued with an exemption certificate and notice of exemption. The notice must be displayed in the vehicle by fixing it on the nearside of the windscreen. If a vehicle is used by multiple drivers, the driver who holds the exemption shall remove the notice from the windscreen when they are not operating the vehicle.

If an application for an exemption is refused, the Council will notify the applicant with a clear explanation of the reasons for refusal and the associated right of appeal. Drivers may appeal against the decision not to issue an exemption certificate to the Magistrates' Court within 28 days of the date of the written refusal.

The Council notes that a failure to comply with the duties in the relevant parts of the Equality Act 2010 (as amended) may be criminal offences and/or may also lead to the Council considering that those who do not comply are not "fit and proper" to hold a licence.

Further information on the duties imposed can be found within the Equality Act 2010 (as amended) and in the Guidance found [here](#).

## **Part 9: Fares**

### **Hackney Carriages**

The Council will consider the fare scales following a formal proposal from the hackney trade evidencing that at least 51% of the trade are in support. Before setting the fares, the Council will follow the appropriate procedures detailed in the 1976 Act.

When determining the level of fares, consideration will be given to what it is reasonable to expect the travelling public to pay as well as the need to give the drivers an incentive to provide a cost-effective service at the times it is needed.

Hackney carriage fares, set by the Council, are a maximum and can be negotiated downwards by the hirer.

The fare for any journey that starts and ends within the Borough cannot exceed the metered fare based on the Council's maximum fare tariff. The meter must only be started when the passenger(s) is/are in the vehicle and the journey commences. The fare for any journey that starts or ends outside of the Borough can be negotiated prior to the commencement of the journey without using the meter.

The maximum fares currently prescribed by the Council are set out on the Council's website. A table of authorised fares will be provided to each hackney carriage licence holder, which must then be displayed in each vehicle so that it is easily visible to all hirers.

A hackney carriage driver must, if required by the passenger, provide a written receipt for the fare paid.

Where payments for journeys by credit/debit card are accepted, it is not permissible to set a minimum card payment amount.

### **Private Hire Vehicles**

The fare for a journey in a private hire vehicle must be agreed with the private hire operator at the time of booking. The driver should charge no more than the fare agreed with the operator at the time of booking.

The agreement between the hirer and the operator can either be for a fixed monetary sum, or an agreement that the fare will be calculated using the meter within the vehicle.

A private hire driver must, if requested by the passenger, provide a written receipt for the fare paid.

Where payments for journeys by credit/debit card are accepted, it is not permissible to set a minimum card payment amount.

## **Part 10: Licence Fees**

### **Fee Structure**

The legislation and established case law provide that licence fees should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands, and administering the control and supervision of hackney carriages and private hire vehicles. In simple terms, the Council can only set fees on a reasonable cost recovery basis and cannot make a profit from licence fees when analysed over a typical three-year cycle.

The fees currently payable for the grant and renewal of hackney carriage and private hire licences are set out on the Council's website. The fee structure is reviewed annually as part of the Council's budgetary process.

### **Payment**

The Council is able to accept payment by debit or credit card, cheques, or BACS payments. Cheques must be payable to Eastbourne Borough Council.

The Council is unable to accept cash payments, save for exceptional circumstances.

### **Refunds and Duplicate Copies**

In the case of any licence where the licence holder voluntarily surrenders their licence prior to the expiry date, the Council may make a refund in respect of the Whole Year/s of the unexpired portion of the licence fee.

In the case of a licence that has been suspended, revoked or otherwise ends early due to disciplinary matters, no refund will be made by the Council.

Where the Council receives a request for a duplicate copy of any previously issued licence, an appropriate fee will be paid to cover the associated administrative costs.

## Part 11: Appeals

Appeals against the below decisions of an Authorised Officer or a Licensing Sub-Committee may be made to the Magistrates' Court:

1. Conditions imposed on a hackney carriage proprietor's licence
2. Refusal to grant a private hire vehicle licence or conditions imposed on such licence
3. Refusal to grant a private hire driver's licence or conditions imposed on such licence
4. Refusal to grant a private hire operators' licence or conditions imposed on such a licence
5. Refusal to grant a hackney carriage driver's licence
6. Suspension, revocation or refusal to renew a hackney carriage or private hire vehicle licence
7. Suspension, revocation or refusal to renew a hackney carriage or private hire driver's licence
8. Suspension, revocation or refusal to renew a private hire operators' licence

Any points issued via the Penalty Points Scheme can be appealed to the Licensing Sub-Committee within 21 days of issue.

All other Authorised Officer or Licensing Sub-Committee decisions cannot be appealed.

Any decision notifications, for the above, will include information on how to appeal and the applicable time limits.

### Contact Us:

Eastbourne District Council  
Town Hall  
Grove Road  
Eastbourne  
BN21 4TW

The Council Web Site can be viewed at [www.lewes-eastbourne.gov.uk](http://www.lewes-eastbourne.gov.uk)

E mail: [customerfirst@lewes-eastbourne.gov.uk](mailto:customerfirst@lewes-eastbourne.gov.uk)

Telephone Main Switchboard – 01323 410000

## **Appendix 1: Conditions Private Hire Vehicles, Hackney Carriage and Specialist Vehicles**

These conditions apply to all vehicles unless expressly stated.

### **Maintenance of Vehicle**

1. The vehicle and all its fittings and equipment shall always when the vehicle is in use or available to hire be kept in a safe and clean condition.
2. All relevant statutory requirements including those contained in the Motor Vehicle (Construction and Use) Regulations shall be fully complied with.
3. All vehicles shall undergo an inspection by a DVSA approved garage within the District every six months.
4. All hackney carriage vehicles will be white in colour.
5. Private hire vehicles will any colour other than white.

### **Identification Plate**

6. The plate identifying the vehicle shall always be securely fixed to the outside on the rear of the vehicle in a conspicuous position in such a manner as to be easily removed by an Authorised Officer or Police Officer. Magnetised fittings are not permitted.
7. Door signs are provided by the Council. All vehicles are required to display an approved door sign on the middle portion of the front driver and passenger doors as supplied by the council. This sign must be permanently fixed to the door, magnetised signs are not permitted.
8. On written application the Council may exempt certain specialist or executive vehicles from the need to display external plates, and operator identification.
9. The private hire licence plate provided by the Council for display inside the vehicle must be fixed to the front windscreen of the vehicle in a position where it may be conveniently read by passengers travelling in the vehicle.

### **Signage and Advertising**

10. Hackney carriages must be fitted with a sign approved by the Council. The sign shall comprise a yellow base material with an attached blue front panel bearing the words EASTBOURNE TAXI in yellow. The rear panel of the sign shall bear the word TAXI or if the proprietor chooses the telephone number of the taxi business. The word TAXI or telephone number of the taxi business on the rear panel shall be red on a black background in Helvetic Bold font style. The letters of the word Eastbourne shall be 2.5 cm high and 2 cm wide. The letters of the word TAXI shall be 7 cm high and 8.5 cm wide. The digits of the telephone number on the rear of the sign shall be 8 cm high and 5 cm wide. The sign shall be illuminated and have a green light on top capable of being switched on to indicate the vehicle is for hire. The sign shall be

placed transversely on the roof of the vehicle and shall not exceed 46 cm in width and 17 cm in height.

11. Private hire vehicles must not carry a roof sign of any description or have any markings that give the impression that it is a hackney carriage. They must display Council approved signage on the vehicles stating that the vehicle is only able to undertake pre-booked journeys. Any signage or advertising on a private hire vehicle must not include the words 'taxi', 'cab', 'hackney carriage' or 'for hire' save for the word 'taxi' or 'cab' being part of the company name.
12. The proprietor shall cause to be affixed and maintained in the vehicle in a conspicuous position and in accordance with the directions of the Council any sign or notice which the Council may from time to time require.
13. No other signs will be permitted to be displayed anywhere on the vehicle without the written permission of an Authorised Officer.
14. Restricted first party advertising is allowed so long as the advertising material is limited to the metal surfaces on the rear doors, providing it does not cause an obstruction, the advertising material shall be non-reflective, and nothing shall be advertised which may reasonably cause offence to any section of the community. The proprietor of any vehicle displaying an advertisement that does not comply with this condition will be required to remove the offending advertisement and until it has been removed the vehicle's licence will be suspended.

## **Miscellaneous**

15. No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made without the approval of the Council at any time the licence is in force.
16. A suitable First Aid kit shall be always provided and maintained in the vehicle when in use or available for hire.  
  
Contents should include:
  - Disposable Gloves
  - First Aid Guidance Leaflet
  - Moist Wipes
  - Safety Pins
  - Sterile Dressings with Pads (Large)
  - Sterile Eye Pads with Bandages
  - Sterile Wash Proof Plasters (Assorted)
  - Triangular Bandages
  - Sterile Dressings with Pads (Medium)
17. A suitable Fire Extinguisher which conforms to British and European standards shall be always provided and maintained in the vehicle when it is in use or available for hire. The fire extinguisher will be visible and readily available for immediate use in an emergency. Please ensure that you have adequate training on using your fire extinguisher when purchasing.

18. A legal spare wheel (or appropriate alternative) must be carried in the boot of the vehicle and the necessary tools to fit the spare wheel
19. The proprietor shall notify the Council in writing of any change of his address within seven days of such change taking place.
20. The proprietor shall within seven days disclose to the Council in writing details of any conviction, caution, FPN, civil injunction, or Acceptable Behaviour Contract imposed on him or if the proprietor is a company or partnership on any directors, company secretary or partners.
21. If the proprietor permits or employs any other person to drive the vehicle then before that person commences to drive the vehicle the proprietor shall cause that driver to deliver to him their private hire drivers or hackney carriage licence.
22. Any accident in a vehicle causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of person carried therein must be reported as soon as practicable and in any case within 72 hours of the occurrence.
23. Licensed vehicles may be fitted with Dark Tinted Windows (Manufacturers standard fit). All vehicles must comply with the Road Vehicles (Construction and Use) Regulations 1986 Regulations (10) and (11)
24. Where payments for journeys by credit/debit card are accepted, it is not permissible to set a minimum card payment amount.
25. Vehicles presented for first licensing shall not be more than nine years old and vehicles presented for re-licensing shall not be more than ten years old apart from in exceptional circumstances at the discretion of an Authorised Officer. Applications to re licence vehicles over ten years old must be made in writing to the Council citing what is an 'exceptional circumstance'. Financial matters nor the condition of the vehicle come into this exceptions category and will not be considered in the determination.
26. For new and relicensed vehicles defined by the Vehicle Certification Agency as Low Emission, Ultra Low Emission Vehicles and Zero Emission Vehicles or if the vehicle is a hybrid it shall not be more than 15 years old in age

### **CCTV (Implementation date 31 October 2023)**

27. The Council considers that the security of drivers and passengers is of paramount importance and CCTV can be a valuable deterrent.
28. CCTV systems are to be installed in all licensed hackney carriage and private hire vehicles (other than private hire vehicles issued with a plate exemption for executive and VIP work and are used solely for this purpose). The system must be approved by the Authority and be capable when required of audio recording. The Authority will become the Data Controller and will publish a Data Impact Statement and guidance to drivers.

29. EBC permit audio recording but limited to: Vehicles driven during home to school journeys; and with the use of a trigger switch to turn audio on (for use by driver and/or passenger).
30. The installation and operation of the CCTV systems shall comply with the requirements of the Information Commissioner's CCTV Code of Practice. Following the installation of any CCTV installed into the vehicle it is incumbent upon the operator, proprietor or driver to handle relevant data in an appropriate or secure manner.
31. The CCTV system shall comply with any legislative requirement as regards safety, technical acceptability and operational/data integrity.
32. The CCTV system will always remain the property of the proprietor of the vehicle who will be responsible for the maintenance of the system and will ensure that it is checked regularly and always maintained in working order. If at any time the CCTV system is not working, it must be reported to an Authorised Officer within 72 hours.
33. The CCTV system must be capable of date, time and vehicle identification. It must be capable of capturing images during daytime and darkness of sufficient quality to enable the identification of any person travelling in the vehicle and be of such quality that it can be used for prosecution purposes, where necessary.
34. The positioning of the CCTV camera and hardware should be such that the hard disc or data card is not accessible to any passenger travelling in the vehicle. The equipment must be securely fixed such that it cannot be tampered with or damaged by any person travelling in the vehicle.
35. The CCTV system shall not be used to record conversations between members of the public, since that is highly intrusive, and if any system is equipped with a sound recording facility, then that functionality shall be disabled unless the use of audio has been approved for home to school journeys, or a trigger switch has been fitted.
36. All vehicles with a CCTV system shall display prominent notices, visible both outside and inside the vehicle, to inform passengers that a CCTV system is in operation.
37. An Authorised Officer or Police Officer may, on reasonable notice, examine any camera installation or any footage from the CCTV. The Council shall be permitted to access data where they have received a complaint involving the vehicle or its driver and the complaint cannot be fully investigated without access to the recording. The licence holder shall co-operate with any Police investigation where access to the CCTV footage may assist.
38. The CCTV system must be capable of recording and storing images for a minimum of 35 days.

## **Appendix 2: Hackney Carriage Byelaws**

### **Extracts from the Byelaws and Resolutions of the Council**

made with respect to hackney carriages (taxis) in the Borough of Eastbourne (i.e., paragraph numbers relate to the 1970 Byelaws as amended)

#### **Provisions regulating the way the number of each hackney carriage, corresponding with the number of its licence, shall be displayed.**

1. Every proprietor of a hackney carriage shall:
  - a. make sure the number of the licence granted to him in respect of the carriage to be displayed: -
    - (i) inside the carriage in such a position as to be clearly legible by the hirer throughout the hiring; and
    - (ii) outside the carriage by securely fixing at the rear of the carriage in a position above the rear bumper and to the off side of the centre line of the vehicle, the authorised hackney carriage plate issued to him by the Council.
  - b. not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire.
  - c. does not cause or permit the vehicle to ply for hire with any such plate so defaced that any figure or material is illegible.

#### **Provisions regulating how hackney carriages are to be furnished or provided.**

2. Every proprietor of a hackney carriage shall:
  - a. provide sufficient means by which any person in the carriage may communicate with the driver.
  - b. cause the roof or covering to be kept watertight.
  - c. provide any necessary windows and means of opening and closing not less than one window on each side.
  - d. cause the seats to be properly cushioned or covered.
  - e. cause the floor to be provided with a proper carpet, mat or other suitable covering.
  - f. cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service.
  - g. provide means for securing luggage if the carriage is so constructed as to carry luggage.

- h. provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use.
  - i. provide at least two doors for the use of persons conveyed in such a carriage and a separate means of ingress and egress for the driver.
3. Every proprietor of a hackney carriage shall cause the carriage to be provided with a taximeter. The taximeter shall be so constructed, attached, and maintained as to comply with the following requirements, that is to say: -
- a. the machinery of the taximeter shall be brought into action by moving a lever or other device.
  - b. until the machinery of the taximeter is brought into action no fare shall be recorded on the face of the taximeter.
  - c. when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in figures clearly legible and free from ambiguity a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance in pursuance of the byelaw in that behalf.
  - d. the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon.
  - e. the taximeter shall be so placed that all letters and figures on the face thereof may be seen by any person conveyed in the carriage and for that purpose suitable means of illumination shall be provided during any period of hiring.
  - f. the taximeter and all fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

**Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments and determining whether such drivers shall wear any and what badges.**

4. Every driver of a hackney carriage provided with a taximeter shall: -
- a. as soon as the carriage is hired by distance and before commencing the journey, bring the machinery of the taximeter into action by moving the lever or other device with which the taximeter is fitted.
  - b. cause the dial of the taximeter to be kept properly illuminated throughout any part of the hiring which is during the hours of darkness as defined in Section 1 of the Road Transport Lighting Act 1927, and at any other time at the request of the hirer.

5. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
6. Every driver of a hackney carriage for which stands are fixed by any byelaws in that behalf shall, when plying for hire in any street and not actually hired:
  - a. proceed with reasonable speed to, and station the carriage on, one of such stands.
  - b. if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand.
  - c. on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and to face in the same direction.
  - d. from time to time when any other carriage immediately in front is driven off or moved forward, cause his carriage to be moved forward to fill the place previously occupied by the carriage driven off or moved forward.
7. Every proprietor or driver of a hackney carriage who shall have agreed or shall have been hired to be in attendance with the carriage at an appointed time and place, shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such time and place.
8. If a badge has been provided by the Council and delivered to the driver of a hackney carriage, either with the licence granted to him by the Council or afterwards, he shall, when standing, plying or driving for hire, wear that badge in such a position and manner as to be plainly and distinctly visible.
9. Every driver of a hackney carriage so constructed as to carry luggage shall when requested by any person hiring or seeking to hire the carriage: -
  - a. convey a reasonable quantity of luggage.
  - b. afford reasonable assistance in loading and unloading.
  - c. afford reasonable assistance in removing it to or from the entrance of any house, station, or place at which he may take up or set down such person.
10. Every proprietor or driver of a hackney carriage who shall knowingly convey in the carriage the dead body of a person shall, immediately thereafter, notify the fact to the Council.
11. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the current tariff. The rate of fare being calculated by distance unless the hirer expresses at the commencement of the hiring his desire to engage by time. Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised, by which it may not be possible to record on the face of the taximeter.

12. (1) Every proprietor of a hackney carriage plying for hire for which any fares are fixed by any byelaw in that behalf shall: -
- a. cause a statement of such fares to be painted or marked on the side of the carriage, or on a plate affixed thereto, in clearly distinguishable letters and figures.
  - b. renew such letters and figures as often as is necessary to keep them clearly visible.
- (2) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

**Provisions securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing charges to be made in respect thereof.**

13. Every proprietor or driver of a hackney carriage shall, immediately after the termination of any hiring, carefully search the carriage for any property which may have been accidentally left therein.
14. Every proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him: -
- (i) carry it within twenty-four hours, if not sooner claimed by or on behalf of its owner, to the office of the Council, and leave it in the custody of the officer in charge of the office on his giving a receipt for it.
  - (ii) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to one shilling in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than five pounds.
15. Every person who shall offend against any of these byelaws shall be liable, on summary conviction, to a fine not exceeding 100 pounds and, in the case of a continuing offence, to a further fine not exceeding five pounds for each day during which the offence continues after conviction.

Link to hackney carriage Byelaw can be viewed on the Council website at [www.lewes-eastbourne.gov.uk](http://www.lewes-eastbourne.gov.uk) and search for byelaws.

### Appendix 3: Private Hire Drivers Conditions of Licence

1. The driver shall behave in a civil and orderly manner and shall take reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the licensed vehicle.
2. The driver shall be always clean and tidy in appearance and dressed smartly with long or short sleeved shirt or blouse and long trousers, tailored shorts or skirts. Suitable footwear for driving must be worn.
3. The driver shall ensure that the vehicle is presented in a clean and tidy condition for each journey.
4. The driver must carry assistance dogs when required unless they have a Certificate of Exemption from the Council.
5. The drivers of a designated wheelchair accessible vehicle shall carry a passenger while in the wheelchair and not to make any additional charge for doing so. If the passenger chooses to sit in a passenger seat the driver shall carry the wheelchair and to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort. The driver will be responsible to assisting the passenger to get in and out of the vehicle and for loading the passenger's luggage and/or wheelchair into and out of the vehicle. The driver must ensure that any occupied wheelchair being transported in a wheelchair accessible vehicle must be safely secured using the restraint system carried in the vehicle, provided such system is compatible with the wheelchair being transported.
6. A driver who has agreed to attend a certain time at a specified place or whose operators has informed them must attend a certain time and place shall unless delayed or prevented by some sufficient cause must so attend.
7. A driver must carry in the vehicle any luggage to which the passenger requests if it can be properly secured with the luggage constraints.
8. A driver must provide reasonable assistance in loading and unloading such luggage.
9. A driver must provide reasonable assistance in removing any luggage to or from of an entrance of any building or place the passenger may be taken up or set down.
10. A driver must provide reasonable assistance to any passenger in alighting or entering the vehicle.
11. The driver of a vehicle equipped with a taxi meter shall set the meter into operation at the point at which the hirer commences his journey unless the hirer pre-agrees a fare.
12. The driver shall always when acting as a private hire driver wear the badge issued by the Council in such a manner to be distinctly visible. The driver shall not lend the badge to any other person or cause or permit any other person to wear it.
13. The driver must not allow a passenger into their vehicle unless they have first confirmed that there is a booking in place for that passenger.

14. Where any of the following occur, the driver must notify the Council in writing so that the notification is delivered to the Council within seven days.
- Any change to the driver personal details including home address, contact telephone number or email address
  - If they change from one private hire operator to another
15. Existing holders of driver's licences are required to notify the licensing authority in writing within 48 hours of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the licensing authority within 48 hours of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the licensing authority as to the honesty of the licence holder and will be considered as part of any subsequent renewal applications or licence review.
16. A driver shall not at any time permit the noise from any radio or sound system in the vehicle to be a source of annoyance or nuisance to any person, whether inside or outside the vehicle. The driver must turn off their radio/stereos if requested by a passenger.
17. The driver shall not between the hours of 23:30 and 07:00 sound his horn to notify the hire of his presence.
18. The driver shall not, without the consent of the hirer, convey any other person in the vehicle other than the hirer.
19. The driver shall not demand for any hirer a fare in excess of any previously agreed for that hirer between the hirer and the operator or if the vehicle is fitted with a taximeter and there has been no previous agreement as to the fare the fare shown on the face of the taximeter.
20. A driver shall, if requested by the hirer, provide him with a written receipt for the fare paid.
21. A driver must supply on request his badge number or plate number to any person on request.
22. A driver stopped by an Authorised Officer or a Police Officer must produce their licence on demand.
23. The driver shall not wilfully or negligently cause or permit the vehicle licence plate to be concealed or allow the plate to be so defaced as to make any figure or information illegible.
24. The driver when hired to drive to a particular destination shall proceed to that destination by the shortest available route unless otherwise instructed by the hirer.
25. The driver must not cause or permit the vehicle to stand on a public road to suggest that it is plying for hire.

26. The driver shall not smoke or 'vape' in the vehicle.
27. The driver must not use a mobile phone whilst driving unless it is designed for hands free operation.
28. The driver shall not convey or permit to be conveyed any greater number of persons than the number specified on the vehicles licence.
29. The driver must return forthwith all licence, badges and plate to the Council when the driver ceases to be licensed.
30. The driver must cease driving any private hire vehicle and contact the Council immediately if they know of any medical condition which may affect their driving ability or the health or safety of themselves or any passengers.
31. The driver shall ensure that he complies with the law and best practice in relation to seat belts in relation to children under the age of fourteen.

## Appendix 4: Private Hire Operator Conditions

### Records

1. The operator shall keep a record of every booking of a private hire vehicle invited and accepted by him whether direct from the hirer or by undertaking the bookings at the request of another operator. The records shall be made available for inspection by an Authorised Officer or Police Officer upon request. The records entries must be made before the commencement of the journey and shall include:
  - The name of the person making the booking
  - Contact telephone number of the person making the booking
  - The time of the request.
  - The pick-up point.
  - The destination.
  - The name of the driver.
  - The driver's licence number.
  - The vehicle registration number of the vehicle dispatched.
  - The name of any individual that responded to the booking request.
  - The name of any individual that
  - The start time of trips
  - The end time of trips
  - Any complaints and the action taken from the operator from these Complaints (including any crime reference numbers if applicable)
2. All records shall be kept by the operator for a period of at least 12 months from the date of the journey.
3. The operators shall keep written records of the particulars of all vehicles operated by him which include the:
  - Type, make, model, colour and engine size of the vehicle
  - The date the vehicle was first licensed for private hire
  - Vehicle registration number
  - Number of seats for passengers
  - Owner of the vehicle
  - Valid certificate of insurance of the vehicle
  - Method of charging i.e., whether a meter is fitted
  - Vehicle plate number.
4. The operator will securely retain a copy of the licences of all drivers (whether private hire or hackney carriage) engaged to work for them and make them available for inspection by an Authorised Officer or Police Officer upon request.
5. The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking should not be permitted by private hire vehicle operator without the informed consent of the person making the booking.

### Display of Licence Plates

6. The operator shall ensure that the licence plates issued by the Council are affixed to such position as shall be approved by an Authorised Officer.
7. The operator shall ensure maintenance of such licence plates in clean and legible conditions and shall inform the Council immediately should it be lost or broken or become defaced.

### **Miscellaneous**

8. The operator shall ensure that any staff they always employ act in a civil and courteous manner.
9. The operator shall ensure that a private hire vehicle which has been hired shall attend the appointed time and place unless delayed or prevented by sufficient cause.
10. The operator must not accept a booking by any person to hire a private hire vehicle unless the passenger or someone on his behalf previously requested the hiring by any means, for example telephone, email, text or personal call or smart phone App, to the licence holder.
11. The operator must not accept a request for hire (a booking) which has been communicated to them directly by a driver a driver. For clarification, the operator must not accept a booking made by a driver on behalf of a potential customer where the person approached the driver in the street seeking to hire the vehicle.
12. The operator must ensure that none of his staff or agents tout for business on the street, touting in this contact means approaching any person in the street and asking if they want to book a vehicle.
13. The operator is required to undertake reasonable checks as to fitness or suitability of their employees or agents who take bookings.
14. The operator shall ensure that every driver engaged has obtained a private hire drivers licence obtained by the same Licensing Authority which issued the operator's licence. If any documents expire the operator must ensure that driver does not work until the documents have been submitted to the operator.
15. The operator may only operate from an address within the Borough they are licensed. Upon the grant of a licence the Council will specify the address from which the operator may operate.
16. The licence must be kept in the possession of the operator and must be provided when requested by an Authorised Officer or any Police Officer. In the event of loss or damage to this licence the Council must be informed immediately so that a replacement licence can be issued. The licence must not be altered or defaced in any way.
17. The operator must not operate more vehicles than the maximum number specified on their licence. If the number of vehicles they operate increases during the period of their licence the operator shall apply to the Council for a variation and an

amended licence fee (pro rata to reflect the increase) will apply for the remainder of their licence.

18. The operator shall keep clean, adequately heated, ventilated and lit any premises which the operator provides and to which the public have access whether for the purpose of booking or waiting. Any waiting area provided by the operator shall have adequate seating facilities.
19. The operator must not refuse a booking because the person wishing to make the booking proposes that an assistance dog is to travel with them. The operator must not make an additional charge for the carriage of a passenger's assistance dog.
20. The operator may only trade under this licence using one of the following, his name, the company's name, the trading name or one of the names which the licence holder included on the application form or another trading name provided that the operator notified the Council at least fourteen days prior to the intended change of name.
21. The operator must notify the Council in writing within seven days of the event occurring.
  - Any change to the licence holders' personal details including home address or if a company the registered address, contact telephone number or email address.
22. The operator must notify the Council in writing within 21 days of the event occurring.
  - If the licence holder is charged with any criminal offence.
  - Any conviction, caution or FPN given to a person or in the case of a company any director or company secretary or any partner for any criminal offence.
23. The operator shall ensure that all drivers have a badge issued by the Council and that the driver wears the badge which is always distinctly visible whilst available for hire.
24. The operator shall notify the Council forthwith and in writing of any complaints, concerning a contract for hire which call into question the suitability of a driver to hold a licence. Such notification must include the action taken or proposed as a result of the complaint.
25. Before an application for an operator's licence will be considered the applicant will be subject of a Basic Disclosure from DBS or a Certificate of Good Conduct. Applicants that hold a current driver's licence with the Council will be exempt from this requirement. A reference covering the applicant's financial records and/or business history may also be considered appropriate in some instances.
26. Operators will be required as a condition of granting an operator licence, to keep a register of all staff that will take bookings or dispatch vehicles
27. Operators will be required to evidence that they have had sight of an annual basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders.

Operators will have to provide their policy on employing ex-offenders in either of these roles.

28. All Operators are required to keep a record of all complaints received. These records must be made available for inspection by the Authorised Officer on request. Operators are required to advise the authority when any driver is subject to any complaints regarding safeguarding, dishonesty, abusing customers or more than one complaint which does not fall into these categories in any 12 months

## **Appendix 5: Right to Work**

The Council is under a legal duty to ensure that driver and operator licences are only issued to applicants who have lawful immigration status and the right to work in the UK. By law, the Council cannot issue a licence to any applicant that does not satisfy this requirement.

All applicants will need to attend the Council Offices where an Authorised Officer will check their original valid documentation evidencing their right to work in the UK. The applicant must attend in person and bring evidence of their right to work in the UK. Only certain types of documentation are acceptable.

### **For applicants who are British Citizens**

Need to provide a British passport confirming they are a British Citizen. If they do not have a British passport, they can produce any of the other documents contained within List A.

### **For applicants who are not British Citizens but have no restrictions on their right to work in the UK**

Need to provide any of the other documents contained within List A.

### **For applicants who have restrictions on their right to work in the UK**

Need to produce any of the documents contained within List B. If the documentation proves a right to work expires prior to the normal licence expiry date the licence will only be granted for the period, the Council have proof of a right to work.

The Council will not accept a visa that confirms their right to reside in the UK, but which is attached to an expired passport. The applicant will need to apply to the Home Office to obtain acceptable proof, such as a biometric residence permit. Once a valid application to the Home Office has been confirmed, a six-month licence can be granted to allow time for the Home office to process the application.

An applicant must bring original documentation (not a photocopy) and it is the applicant's responsibility to make sure they can provide acceptable forms of documentation.

The Authorised Officer will check that the documentation is acceptable based on either List A or List B (depending on your circumstances), check that the document is an original and relates to the person providing it, and take a photocopy for Council's records.

If the documentation provided demonstrates that the applicant has a permanent right to work in the UK (from List A) they will not be required to produce documentation for future applications. In other cases, the applicant will be required to provide documentation when they next apply to renew their licence so their right to work can be verified again at that point in time.

## List A

- (i) A passport showing the holder, or a person named in the passport as the child of the holder, is a British Citizen or a citizen of the UK and Colonies having the right of abode in the UK.
- (ii) A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- (iii) A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- (iv) A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- (v) A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named can stay indefinitely in the UK or has no time limit on their stay in the UK.
- (vi) A current passport endorsed to show that the holder is exempt from immigration control, can stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- (vii) A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person can stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- (viii) A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- (ix) A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- (x) A certificate of registration or naturalisation as a British Citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

## List B

- (i) A current passport endorsed to show that the holder can stay in the UK and is currently allowed to do the type of work in question.
- (ii) A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and can do the work in question.
- (iii) A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
- (iv) A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK and can do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- (v) A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with Verification from the Home Office Evidence and Enquiry Unit.
- (vi) A Verification issued by the Home Office Evidence and Enquiry Unit to you, which indicates that the named person may stay in the UK because they have an in-time application, appeal or administrative review and which is outstanding.

## **Appendix 6: Guidance on the Relevance of Convictions**

### **Convictions Guidance**

#### **Introduction**

The purpose of this document is to provide guidance on the criteria considered by the Council when determining whether an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver or operator licence.

The overriding aim of the Council is to protect the safety of the public. The Council is concerned to ensure:

- That a person is a fit and proper person
- That the person does not pose a threat to the public
- That the public are safeguarded from dishonest person
- The safeguarding of children, young persons and vulnerable adults

This document provides guidance to any person with an interest in taxi and private hire licensing. But not exclusively:

- Applicants for drivers' licences
- Existing licensed drivers whose licences are being reviewed or renewed
- Authorised Officers
- Members of the licensing sub-committee ('sub-committee')
- Magistrates and Judges hearing appeals against the Council's decisions

Where authorised Officers have delegated powers to grant licences, they will utilise these guidelines when deciding to grant a licence. In all other cases applications for licences will be referred to the licensing sub-committee. Whilst authorised officers and the sub-committee will have regard to the guidelines contained in the Guidance each case will be considered on its individual merits and, where the circumstances demand, the sub-committee may depart from the guidelines.

For renewal applications and current licence holders the Guidance will not be applied retrospectively. However, the Guidance will be applied if any additional convictions are incurred or brought to the attention of the licensing authority that would call into question a person's suitability to hold a licence.

There is no judicially approved test of fitness and propriety and, accordingly, several local tests have developed.

The test used by this Authority when considering whether a licence holder is a 'Fit and Proper' Person is:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence. All decisions on the suitability of an applicant or licensee will be made

on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or authorised officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and will take into consideration conduct that has not resulted in a criminal conviction.

The Council will undertake whatever checks it considers necessary to ensure that licences are not issued to unsuitable people. In assessing the suitability of an applicant or licence holder, the licensing authority will take into consideration the following factors:

- Criminality
- Number of endorsed DVLA driving licence penalty points
- The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process).
- The previous licensing history of existing / former licence holders.

In addition, the Council will also consider further information from sources such as, but not limited to, the Police (including abduction notices), Children and Adult Safeguarding Boards, Multi Agency Safeguarding Hub, Immigration Service, Social Services other licensing authorities, other departments within the Council, and other statutory agencies.

As licensed drivers often carry unaccompanied and vulnerable passengers, the licensing authority will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. A licensed PHV or taxi driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. Taking drugs and driving poses an obvious risk to public safety, whilst applicants who have convictions for the supply of drugs should also be treated with considerable concern, the nature and quantity of the drugs, whether for personal use or supply are issues which will be considered carefully. As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public.

The Council reserves the right to overturn or annul a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.

In this Guidance the word "applicant" refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders that are the subject of periodic auditing or having their licence reviewed by the Council as part of the Guidance-implementation process. It also includes existing licence holders who are being considered by the Guidance by virtue of offending activity having recently come to light.

In this Guidance, the word "conviction" is to be defined as including convictions, cautions, warnings, reprimands and other relevant information.

## **General Guidance**

Whilst the Licensing Sub-Committee may consider that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, it would normally be expected that the applicant would be required to:

- Remain free of conviction for an appropriate period as detailed below; and
- Show adequate evidence that her or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).

(Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence).

The standards and criteria set out below are those that would normally be applied to applications and licences. Each case will be considered on its own merits, and the Guidance may depart from these criteria, however it must only do so in exceptional circumstances. The otherwise good character and driving record of the applicant of licence holder will not ordinarily be considered as exceptional circumstances.

Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.

Where an applicant has been convicted of a criminal offence, the Council cannot review the merits of the conviction (Nottingham City Council v. Mohammed Farooq (1998)).

## **Powers**

Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the Council to suspend, revoke or refuse to renew a licence if the applicant/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 allows the Council to consider all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore, the Council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.

In this Guidance the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

## **Consideration of disclosed criminal history**

Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the Council is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operator's licence is a 'fit and proper' person to hold such a licence. However,

if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will investigate:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- When the offence(s) were committed
- The date of conviction
- Circumstances of the individual concerned
- Sentence imposed by the court
- The applicant's age at the time of conviction.
- Whether they form part of a pattern of offending
- Any other character check considered reasonable (e.g., personal references)
- Any other factors that might be relevant for example:
  - The previous conduct of an existing or former licence holder,
  - Whether the applicant has intentionally misled the council or lied as part of the application process
  - Information provided by other agencies/council departments

In this Guidance 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment, then the date that the sentence ends will be five years from the date of sentencing - regardless of the amount of time served by the applicant. If the sentence is amended by a court later, then this new sentence becomes relevant for the purposes of this Guidance. The term 'since completion of sentence' is to be construed in a similar way.

Existing holders of driver's licences are required to notify the Council in writing within 48 hours of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the Council within forty-eight hours of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the Council as to the honesty of the licence holder and will be considered as part of any subsequent renewal applications.

It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence (Section 57 Local Government (Miscellaneous Provisions) Act 1976). Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

Any offences or behaviour not expressly covered by this Guidance may still be considered.

The Guidance is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Guidance other licensing authorities, and information disclosed by the police.

Admission of guilt is required before a Police caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

Applicants can discuss further what effect a caution/conviction may have on any application by contacting an Authorised Officer or advice.

### **Options when determining an application/licence**

When determining an application or reviewing an existing licence in relation to convictions or other relevant information the Council have the following options:

- grant the licence or take no further action
- grant the licence with additional conditions
- refuse, revoke, or suspend the licence
- issue a warning
- issue Penalty Points

If a current licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

### **Serious offences involving violence**

Licensed drivers have close regular contact with the public. A firm line will be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.

Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

A licence will not normally be granted where the applicant has a conviction for an offence of similar offence(s) which replace the below offences and the conviction is less than 10 years prior to the date of application:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm
- Grievous bodily harm with intent
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault
- Violent disorder
- Resisting arrest
- Any racially aggravated offence against a person or property

- Affray
- Any offence that may be categorised as domestic violence
- Any offence that may be categorised as stalking
- Harassment, alarm or distress, intentional harassment or fear of provocation of violence
- Or any similar offences (including attempted or conspiracy to commit) offences
- which replace the above

A licence will not normally be granted until at least 5 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:

- Obstruction
- Criminal damage
- Any offences (including attempted or conspiracy to commit offences) that are like those above.

A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

### **Offences involving a weapon**

If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

Depending on the circumstances of the offence, an applicant should be free of conviction for 7 years (or at least 7 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

### **Sexual and indecency offences**

As licensed drivers often carry unaccompanied and vulnerable passengers, the Council will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences will be considered as serious. Applicants with convictions for sexual or indecency offences that involve a third party will normally be refused a licence.

An application will normally be refused where the applicant has a conviction for an offence such as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Possession of indecent photographs, child pornography etc.
- Indecent exposure
- Soliciting (kerb crawling)

- Or any sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

In addition to the above the Council will not grant a licence to any applicant who is currently on the Sex Offenders Register.

## **Dishonesty**

A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Taxi drivers are required to deposit such property with police within 24 hours. PHV drivers must pass lost property to the operator. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

In general, a minimum period of 7 years free of conviction or at least 7 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- and any similar offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.

Applicants or existing licence holders that are found to have intentionally misled the licensing authority or lied as part of the application or renewal process, will not be issued with a licence.

## **Drugs**

A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

A licence will not normally be granted where the applicant has an isolated conviction for an offence related to the supply of drugs and has not been free of conviction for 10 years.

A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.

An applicant who has an isolated conviction for an offence related to the possession of drugs (other than for supply) within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.

If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict, then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

A licence will not normally be granted if an applicant has more than one conviction for a drugs related offence.

## **Driving offences involving the loss of life**

A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- or any similar offences

## **Drink driving/driving under the influence of drugs/using a mobile phone whilst driving**

As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence, but he should be warned as to the significant risk to his licence status in the event of re-offending. Normally at least 5 years after the restoration of the driving licence following a drink/drug drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed. If an applicant has more than one conviction for driving or being in charge of a vehicle while under the influence of drink or drugs the application should normally be refused.

Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research (see [link](#)) which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:

- are much less aware of what's happening on the road around them
- fail to see road signs
- fail to maintain proper lane position and steady speed
- are more likely to 'tailgate' the vehicle in front
- react more slowly, take longer to brake and longer to stop
- are more likely to enter unsafe gaps in traffic
- feel more stressed and frustrated.

There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. Considering this, an equally serious view should be taken of convictions for driving whilst using a mobile phone as for driving under the influence of drink or drugs.

A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.

### **Other Motoring Offences**

There are many motoring offences which attract penalty points and fines. Some of these are not necessarily a bar from an applicant being granted a licence or an existing driver retaining a licence.

Traffic offences such as driving without due care and attention, reckless driving, more serious speeding offences (usually dealt with by a court), or offences of a similar nature will give rise to serious doubts about the applicant's suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least 1 year free of such convictions. For applicants with more than one offence this should normally be increased to 5 years.

In cases where the courts have imposed a disqualification in respect of the DVLA driving licence, the periods stated above should normally commence from the date of the restoration of the licence.

In this Guidance the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

In "totting up" cases where disqualification is considered by the Court, even if the court does not disqualify (e.g., because of exceptional circumstances) a driver, the Guidance is likely to refuse a hackney carriage or private hire driver's licence because different criteria apply. An applicant will normally be expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

## **Licensing Offences**

Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 5 years has passed since.

A licence will not normally be granted if an applicant has more than one conviction for a licensing related offence.

## **Insurance offences**

A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years; however strict warning should be given as to future behaviour.

A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.

An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will normally have his operators' licence revoked immediately and be prevented from holding a licence for at least three years.

Where a specific offence is not mentioned, a suitable period will be determined by reference to offences described. The Council reserves the right to refuse a licence where there are aggravating circumstances, even where these guidelines would otherwise indicate that a licence might be granted.

## **Outstanding charges or summonses**

If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.

If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded, or the licence may be refused.

## **Non-conviction information**

If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration may be given to refusing the application or revoking an existing licence.

The Guidance will consider intelligence it receives which has not led to a conviction. This may include but not be limited to information regarding acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering

the most appropriate action to take following the receipt of information), the credibility of the witness / complainant and the licence holder will be considered.

In assessing the action to take, public safety will be the paramount concern. Decisions will be taken on balance of probability.

### **Once a licence has been granted**

If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect consideration to be given as to the suspension or revocation of their licence.

A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If the matter is appealed to a Magistrates or Crown Court, it will take effect at the conclusion of those proceedings. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

A suspension or revocation of the licence of an Operator takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If the matter is appealed to a Magistrates or Crown Court, it will take effect at the conclusion of those proceedings

### **Licences issued by other licensing authorities**

Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

## **Appendix 7: Penalty Points Scheme**

### **Eastbourne Borough Council Taxi and Private Hire Licensing, Penalty Points Scheme**

#### **Introduction**

1. Hackney carriage and private hire operators, rickshaws and Vehicles are principally governed by the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, Council's Byelaws and the Guidance set by the Licensing Committee.
2. The aim of the penalty point scheme is to work in conjunction with other enforcement options. It provides a formalised stepped enforcement plan. The purpose of the scheme is to record misdemeanours and to act as a record of driver's behaviour and conduct to ascertain whether they are a fit and proper person.
3. It does not prejudice the Council's ability to take other actions.

#### **How will it work?**

4. If Operators, Drivers or Proprietors of Vehicles commit an offence or breach rules, regulations or conditions of a licence, the persons involved may be asked to attend the Council offices for an interview. Once investigations are completed, letters are sent out detailing the outcome and a permanent record kept on the persons' file. The outcome may result in no further action being taken, penalty points being awarded, a formal warning, referral to the Licensing Sub Committee and/or prosecution.
5. Penalty Points will remain current for 12 months from the date the penalty points are issued. The period is on a roll forward basis, to allow any older points to be considered as spent and, therefore, excluded from the running total recorded against any individual licensee.
6. Points issued to either the proprietor of a vehicle or a driver and/or operator will be confirmed in writing, normally within 10 working days from the discovery of the contravention
7. Where a licensee accumulates 12 penalty points in any 12-month period, the matter will be referred to the Council's Licensing Sub Committee for it to consider whether the driver/operator/proprietor is fit and proper.
8. The Sub Committee may then suspend or revoke a licence, or issue a warning to the Licensee, or choose to vary further penalty points depending upon the circumstances. Periods of suspension by the Committee will be dependent on the nature of the breaches of the legislation/conditions and the compliance history of the individual.
9. Suspension periods will normally vary between 7 to 90 days or the maximum until the licence expiry date

10. Disputes regarding the issuing of penalty points by Officers will be referred to the Licensing Sub Committee. They will have discretion to vary the number of points than displayed on the tariff, if the complaint is upheld. Drivers must appeal any points issued by Officers to the Licensing Sub Committee within 21 days.
11. The system will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, byelaws and regulations. If points are issued to a proprietor/driver for a matter which is also a criminal offence, e.g., bald tyres, no badge, those persons(s) will not then be the subject of a prosecution by the Council.
12. Potential recipients of points for infringements are not limited to those only. Certain cases may result in drivers and/or proprietors and/or operators receiving penalty points. Points may be awarded to one or several persons depending upon the circumstances of the case, but each case will be considered on its individual merits.

|    | <b>Details of the misconduct for a Driver</b>  | <b>Points Applicable</b> |
|----|--|--------------------------|
| 1  | Inappropriate behaviour at a taxi rank   | 1-12*                    |
| 2  | Unsatisfactory behaviour or conduct of a driver.   | 1-12*                    |
| 3  | Failure to observe rank discipline.<br>(HC only)   | 3                        |
| 4  | Waiting or stopping on a double yellow area, bus stop, disabled bay or private land (without the owner's permission) unless requested by a paying customer present in the vehicle or Obstruction of a highway without reasonable cause | 4                        |
| 5  | Failure to use authorised roof light<br>(HC only)  | 4                        |
| 6  | Failure to have the driver's badge clearly displayed   | 4                        |
| 7  | Unsatisfactory appearance of driver or/and vehicle   | 1-6*                     |
| 8  | Leaving a taxi unattended at a rank  | 4                        |
| 9  | Unreasonable prolongation of journeys or any misconduct regarding the charging of fares  | 6                        |
| 10 | Refusal to accept hiring without reasonable cause  | 6                        |
| 11 | Failure to provide proof of insurance cover when requested by an authorised officer  | 6                        |
| 12 | Carrying more passengers than stated on the vehicle licence  | 12                       |

|    |   |       |
|----|---|-------|
| 13 | Carrying two or more separate fares without the appropriate consent   | 9     |
| 14 | Driving whilst using any handheld mobile device e.g. mobile phone or PDA  | 9     |
| 15 | Carrying an offensive weapon in the vehicle without lawful authority or reasonable cause  | 1-12* |
| 16 | Charging a minimum amount for credit/debit cards for journeys. Or not accepting card payments when a card machine is available and working  | 1-12* |
|    | <b>Details of the misconduct for Vehicle Owner or Operator</b>  |       |
| 17 | Misleading use of the words 'Taxi' or 'Cab' on advertising materials in line with the licensing guidance                                    | 3     |
| 18 | Failure to maintain proper records of private hire vehicles and drivers for a minimum of 12 months  | 3     |
| 19 | Failure to carry first aid kit and the required contents.   | 3     |
| 20 | Failure to carry an in-date fire extinguisher (Dry powder)  | 3     |
| 21 | Displaying unsuitable or inappropriate sited signs or unauthorised advertisements in or on the vehicle- In line with the Licensing Guidance | 3     |
| 22 | Failure to produce Hackney Carriage or Private Hire vehicle for re-testing when required  | 4     |
| 23 | Failure to notify a transfer of Private Hire or Hackney Carriage vehicle licence within 14 days of transfer                                 | 4     |
| 24 | Failure to maintain records in a suitable form of the start and end of work of each driver's day  | 6     |
| 25 | Failure to produce, on request, records of drivers' work activity.  | 6     |
| 26 | Failure to return vehicle licence plate within 7 days after due notice.   | 4     |
| 27 | Displaying/Using a vehicle in which its appearance/features may suggest that it is a Hackney Carriage when it is not licensed as one.       | 6     |
| 28 | Private hire vehicle parking or waiting on an official taxi rank  | *4-12 |
|    | <b>Details of the misconduct for a Driver or Vehicle Owner or Operator</b>  |       |
| 29 | Failure to behave in a civil and orderly manner or bringing the trade into disrepute.   | 1-12* |

|    |   |            |
|----|---|------------|
|    |   |            |
| 30 | Failure to provide reasonable assistance to a passenger without reasonable cause  | 1-12*      |
| 31 | Receiving DVLA points for a Motoring offence  | 3-12*      |
| 32 | Failure to display a correct up to date fare card (HC)  | 3          |
| 33 | Evidence of smoking in vehicle  | 3          |
| 34 | Failure to notify, in writing, the Council of any change of personal details within 7 calendar days   | 3          |
| 35 | Failure to carry a legal spare wheel (or appropriate alternative) and the necessary tools to fit the spare wheel  | 4          |
| 36 | Failure to attend punctually at appointed time and place without sufficient cause   | 4          |
| 37 | A licensed vehicle with a bald or dangerous or defective tyre   | 4 per tyre |
| 38 | Failure to produce relevant documents within timescales when requested by an Authorised Officer   | 4          |
| 39 | Unsatisfactory condition of vehicle, interior or exterior   | 4          |
| 40 | Failure to report, in writing, within 72 hours, accident or damage to licensed vehicle  | 4          |
| 41 | Providing false or misleading information on licence application form / failing to provide relevant information or pay the relevant fee (including dishonoured cheques) | 6          |
| 42 | Failure to notify the Council in writing, of any motoring or criminal convictions within 48 hours or conviction or cautions during period of current licence            | 6          |
| 43 | Failure to submit licence renewal application including documents and attendance at a vehicle inspection  | 6          |
| 44 | Failure to notify, in writing, a change in medical circumstances  | 6          |
| 45 | Failure to issue a receipt on request.  | 3          |
| 46 | Failure to display external/internal licence plate in a fixed position or failure to display appropriate door signs   | 6          |
| 47 | Using a non-approved or non-calibrated taximeter (HC)   | 6          |
| 48 | Using a licensed vehicle in a dangerous condition   | 9          |
| 49 | Plying for hire by Private hire drivers outside the district  | 9          |

|    |  |       |
|----|--|-------|
| 50 | Using a vehicle subject to a Driver Licence suspension order issued by an Authorised Officer or a police officer   | 12    |
| 51 | Using a vehicle for which the Vehicle licence has been suspended or revoked  | 12    |
| 52 | Obstruction of an authorised officer or police officer wishing to examine a licensed vehicle   | 12    |
| 53 | Using an unlicensed vehicle, or using a licensed vehicle without insurance or without a valid VST  | 12    |
| 54 | Failure to carry an assistance dog without requisite medical exemption certificate, or making an additional charge for taking an assistance dog  | 12    |
| 55 | Failure to comply with duties under section 164A (5) Equality Act 2010, including the failure to provide mobility assistance, without the requisite medical exemption certificate or a relevant legal defence, or by making an additional charge | 12    |
| 56 | Driver not holding a valid current DVLA licence  | 12    |
| 57 | Appeal of points by way of Licensing Sub-Committee<br>You have the right to appeal penalty points in which the sub-committee have the right to issue more or less penalty points   | 1-12* |
| 58 | Sending/writing abusive posts about Council Officers and/or Elected Council Members on any social media platform   | 1-12  |
| 59 | Obstruction of the internal CCTV camera that prevents the identification of all persons in the vehicle at any time.  | 1-12  |
| 60 | Not displaying valid CCTV Warning stickers   | 1-12  |
| 61 | Having Audio on at all times on CCTV unless permission granted by the licensing authority  | 1-12  |

*\*Officers may refer any mandatory award of points to Members where there are aggravating features to a case.*

## **Appendix 8: Customer and Driver Charter**

### **Customer & Driver Charter**

Both the customer and driver are expected to be treated with dignity and respect at all times and not to engage in any discriminatory behaviour and to comply with the law. Unsafe or inappropriate behaviour by the passenger/customer or the taxi driver is unacceptable. This conduct may put either of you at risk and could offend, harm or result in the matter being reported to the police or other actions being taken.

### **Eastbourne Borough Council Charter for Customers and Drivers**

The following is non exhaustive charter showing guidelines of what a fare paying passenger (customer) and what a driver should expect when travelling in a Eastbourne Borough Council hackney carriage taxi or private hire vehicle and what a driver can expect from a customer travelling in the vehicle.

#### **Shared Responsibility:**

Both the customer and driver are expected to be treated with dignity and respect at all times and not to engage in any discriminatory behaviour and to comply with the law. Unsafe or inappropriate behaviour by the passenger/customer or the taxi driver is unacceptable. This conduct may put either of you at risk and could offend, harm or result in the matter being reported to the police or other actions being taken.

#### **The Customer should expect the driver:**

- To be clean and presentable.
- To present the vehicle in a clean and roadworthy state.
- To wear the council provided driver licence badge.
- To have good knowledge of the area.
- To take the most economical, practical route unless otherwise directed to the driver at the start of the journey.
- To charge no more than the fare shown on the meter, or the fare agreed before your journey commences and provide a receipt upon request.
- See Fares\*
- When requested, give all reasonable assistance in helping in and out of the vehicle, and with loading and unloading luggage.
- To convey reasonable luggage
- To be aware of disabilities and special needs and offer assistance when sought.
- When waiting at rank in a hackney carriage not to refuse a fare without reasonable cause such as alcohol or drug issues, ending outside the licensing authority areas, or any unreasonable hiring.
- Not to play music without the customers permission.
- To drive in a professional and courteous manner at all times.
- To carry guide, hearing and other assistance dogs unless expressly exempt
- To not smoke in the vehicle including vapes

### **The Driver should expect the customer:**

- To be clean and presentable and not cause damage or soiling to the vehicle where a charge may be levied as shown on the tariff sheet.
- To be in a fit state to travel.
- To have the means of payment before engaging the hiring and to provide proof of ability to pay before the start of the journey upon request.
- To present specific directions of a favoured route if desired.
- Not to request to exceed speed limits.
- Not to consume food or drink unless expressly permitted by the driver upon request.
- Not to seek to carry more than the permitted passengers.
- To not smoke in the vehicle including vapes
- Not to cause the driver to neither be distracted from safe driving nor interfere with any vehicle equipment or controls.

Drivers Rights a Driver may refuse to take passengers or terminate a hiring if they are violent, noisy, misbehaving, filthy, in a state of drunkenness or of a drug induced state or where acting in an offensive manner or expected to undertake an unreasonable hiring.

\*Fares In a hackney carriage taxi it is expected that the meter will be engaged to charge no more than the maximum permitted by the council in accordance with the Tariff Sheet within the licensing authority area. For journeys terminating outside the local licensing authority area the fare may be mutually agreed between the driver and the customer

## **Appendix 9: Taxi & Private Hire Vehicles (Disabled Persons) Act 2022**

The provisions of the Taxi and Private Hire Vehicles (Disabled Persons) Act 2022 gained royal assent on the 28th June 2022 and has made some changes to the sections of the Equality Act 2010 relating to Taxis and Private hire licensing.

1. Section 167 of the Act provides licensing authorities with the powers to make lists of wheelchair accessible vehicles (i.e., "designated vehicles"), and section 165 of the Act then places duties on the drivers of those vehicles to carry passengers in wheelchairs and carry non-wheelchair using disabled people and any mobility aids they may be using, provide assistance to those passengers and prohibits them from charging extra for that assistance.

2. Section 1 of the new 2022 Act now extends the duty to carry disabled passengers to all Hackney Carriage (HC) and Private Hire drivers (PHV), not just those driving designated vehicles and inserts the new Section 164A into the Equality Act. Section 164A of the Equality Act ensures that the duty to carry the passenger and provide mobility assistance applies to disabled persons generally, and not those simply in wheelchairs who are provided for under Section 165.

3. Section 1(4) of the 2022 Act also inserts the new section 165A. This places the driver of a prebooked HC or PHV, under the duty to assist the passenger to identify the vehicle when the driver has been made aware that the passenger or somebody accompanying the passenger is disabled.

4. The requirements of section 164A and 165 do not apply to drivers who have a valid exemption certificate and are displaying a valid exemption notice in the prescribed manner. An exemption certificate can be issued under section 166 of the Act. HCPHV01 Issue No1 June 2021

5. This allows the Authority to exempt drivers from the duties under section 165 where it is appropriate to do so, on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with those duties.

6. Section 4 of the 2022 Act, inserts a new section into the Equality Act, Section 167A this makes it a criminal offence for a Private Hire operator to refuse to accept a booking, or make any additional charge for the journey, because the passenger is disabled, provided the reason for the refusal or failure to accept the booking is because the passenger is disabled or to prevent the driver having to fulfil any of the duties imposed on the driver.  
Maintaining a List of Designated Vehicles

7. Section 3 of the 2022 Act amends Section 167 of the 2010 Act making it a requirement of the licensing authority to maintain a designated list of wheelchair accessible Hackney Carriage and Private Hire Vehicles. List of designated vehicles The Duties Placed on Drivers of Designated Vehicles

8. Section 165 of the Act sets out the duties placed on drivers of designated wheelchair accessible hackney carriage and private hire vehicles, in addition to the existing provisions the 2022 act inserts:

9. To carry the passenger while in the wheelchair or carry non-wheelchair using disabled people and any mobility aids, they may be using, provide assistance to those passengers

and prohibits them from charging extra for that assistance. Note The Authority recognises that some types of wheelchairs, particularly some powered wheelchairs, may be unable to access some of the vehicles included in the Authority list. For that reason, it indicates that the vehicles on the list should be accessible to users of "reference wheelchairs" as defined in Schedule 1 of The Public Service Vehicle Accessibility Regulations 2000.

## **Appendix 10: taxi & private hire vehicles (safeguarding and road safety) act 2022**

The Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 received Royal Assent on the 31st March 2022 with some sections coming into effect then and others at a later date. The DfT issued Statutory Guidance on 23rd May 2022.

Reporting safeguarding or road safety concerns about drivers licences by other licensing authorities

The act requires licensing authorities in England to report safeguarding and road safety concerns about drivers licensed by other authorities to the licensing authority that issued the driver's licence. This is because only the authority that issued a driver's licence can suspend or revoke it. Before the requirement to report concerns applies, the following must be true:

- The licensing authority is in England HCPHV01 Issue No1 June 2021
- The hackney carriage or private hire driver was granted the driver's licence by a licensing authority in England, Wales or Scotland.
- The licensing authority has become aware of information raising safeguarding or road safety concerns about a driver's conduct when in its licensing area
- The driver's conduct in its area is of such a type that the licensing authority would have considered suspending or revoking the driver's licence based on the safeguarding or road safety concerns if it had granted the licence.

Once the licensing authority becomes aware of the safeguarding or road safety concerns, it has 10 working days to provide the relevant information and any other information to identify the driver to the licensing authority that issued the driver's licence. When sharing information, the relevant licensing authorities should cooperate as fully as possible, subject to their obligations under data protection legislation.

### **What counts as safeguarding and road safety concerns?**

The act defines the information that would constitute a safeguarding and road safety concern and states that this would include information indicating that the person:

- Committed a sexual offence (regardless of whether the person was charged with, prosecuted for or convicted of the offence)
- Harassed another person
- Caused physical or psychological harm to another person (regardless of whether the person was charged with, prosecuted for or convicted of the offence)
- Committed an offence that involves a risk of causing physical or psychological harm to another person
- Committed an offence under section 165, 168 or 170 of the Equality Act 2010 (regardless of whether the person was charged with, prosecuted for or convicted of the offence)
- Did anything that constitutes unlawful discrimination or victimisation against another person for the purposes of the Equality Act 2010
- Threatened, abused or insulted another person
- Poses a risk to road safety while driving
- May be unsuitable to hold a hackney carriage or private hire driver's licence for other reasons related to the safeguarding of passengers or road safety

Furthermore, attempting to or conspiring to commit the above offences also constitutes a valid safeguarding or road safety concern. Further detail on what driver conduct constitutes a safeguarding or road safety concern can be found in the act.

### **Considering safeguarding or road safety concerns report by another licensing authority**

The act requires licensing authorities in England that receive a report of safeguarding or road safety concerns about a driver it has licensed to consider whether to suspend or revoke the driver's licence. The requirement applies when the concerns are reported by a licensing authority in England, Wales or Scotland. HCPHV01 Issue No1 June 2021 The decision must be based on the information provided about the safeguarding or road safety concerns and any other information available to the licensing authority. Within 20 working days of receiving the concerns, the licensing authority must inform, in writing, the licensing authority that reported the concerns whether it has suspended or revoked the driver's licence (or intends to suspend or revoke the licence). The licensing authority must also provide its reasons for the action it has taken or intends to take. Where a licensing authority decides not to revoke or suspend a licence, the reasons for this might also include any actions short of suspension or revocation that it will take.

## **Appendix 11: Privacy Notice**

### Privacy Notice for CCTV in Taxi and Private Hire Vehicles

#### **Why we are collecting your data.**

CCTV is now mandatory in all Licensed and Private Hire vehicles within Lewes District Council and Eastbourne Borough Council. This means Lewes District Council and Eastbourne Borough Council are data controllers and collect your personal data in the form of video footage and audio from the use of CCTV camera equipment installed in Licensed and Private Hire vehicles.

It is intended that the CCTV and audio data will enable the prevention and detection of crime and promote a safe experience for both drivers and the travelling public.

#### **What is the legal basis for processing this data?**

The legal basis we rely on to process your personal data is:

- Article 6(e) of the UK General Data Protection Regulation (UK GDPR). Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

Where we need to process 'special category' data, the lawful basis is provided by UK GDPR article 9(1)(g) – the processing is necessary for reasons of substantial public interest (with a basis in law); and by the Data Protection Act 2018, Schedule 1, Part 2, paragraph 10.

#### **What personal data will we be collecting?**

We will capture CCTV footage of you when the CCTV cameras are in operation.

There are limited circumstances in which audio recording may be justified.

Where audio facilities are installed, it should only be activated by a trigger or panic button function. The time period that audio recording may be active should be the minimum possible, drivers will be responsible for keeping a log of when audio has been switched on, this will be inspected annually by council staff.

In some circumstances, when we receive complaints regarding driver or passengers conduct, we may request the footage if deemed necessary.

#### **Who will your information be shared with?**

The CCTV system will be fitted, maintained and annually checked by a third-party specialist vehicle CCTV installer. They will also be responsible for ensuring that any footage requested is sent directly to the council. CCTV and audio data is shared internally only with the appropriate staff where necessary.

Our systems require a username and are password protected all members of staff are expected to handle personal data in accordance with the data protection legislation. We may disclose information when necessary to prevent risk of harm to an individual

There may be instances where we are obligated to use the data obtained from the CCTV system for reasons that are not listed above such as assistance with insurance claims, for the prevention and detection of crime, to prevent and detect fraud and other purposes which we are legally obligated to act upon or where we are permitted to under data protection legislation.

### **We will not**

- Use your information for marketing or sales purposes without your prior explicit consent.
- Send or store your data abroad.
- Make decisions about you based on automated processing.

### **How long will we hold your data for?**

The Council will hold your personal data only for the period that is necessary and will follow organisational and Local Authority standards in this area. At the end of the retention period the Council will securely destroy or dispose of the data in line with retention schedules.

- Video and audio footage is overwritten automatically after approximately 35 days if not required as evidence. Any footage retained as evidence for insurance purposes or legal action is deleted in line with standard retention schedules.

### **Your rights**

You are entitled to request a copy of any information about you that we hold.

If the information we hold about you is inaccurate you have a right to have this corrected and you have the right to request completion of incomplete data.

You have the right to request that we stop, or restrict the processing of your personal data, in certain circumstances. Where possible we will seek to comply with your request, but we may be required to hold or process information to comply with a legal requirement.

If you are dissatisfied with how the councils have used your personal information you have a right to complain to the Information Commissioner's Office at [casework@ico.org.uk](mailto:casework@ico.org.uk)

### **Identity of the Data Protection Officer**

**Data Protection Officer – Oliver Dixon, Senior Lawyer**

### **Contact details**

**Lewes and Eastbourne Councils, Town Hall, Grove Road, Eastbourne, BN21 4UG**

**Email: [accesstoinformation@lewes-eastbourne.gov.uk](mailto:accesstoinformation@lewes-eastbourne.gov.uk)**

**Tel: 01323 410000**